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Supreme Court, U.S.
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JOSEPH F. SPANIOL, JR.
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No. _____

IN THE

Supreme Court of The United States

October term 1987

GLADYS COK
Appellant
v.
LEO COK
Appellee

APPEAL FROM OPINION OF THE SUPREME COURT OF THE STATE OF RHODE ISLAND and PROVIDENCE PLANTATIONS

JURISDICTIONAL STATEMENT

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QUESTION PRESENTED

1. Once a person has carried out a Removal pursuant to Title 28 USC 1446, (especially Title 28 USC 1446(e), and Title 28 USC 1441 et seq., are actions taken in the trial court of the state after the "Removal is effected", (1) automatically stayed, and (2) are any proceedings made in the trial court during the time the matter is removed to the U.S. district court — absolutely null and void — and are they voidable?

2. Are the actions of the parties in this case: Louis Cosentino, Allen Kirshenbaum, Edward Healey, Edward Gallogly and, Thomas Fay, which they exercised against me, the appellant, after I removed the matter of Louis Cosentino's Motion to the United States district court for Rhode Island, null and void, — and voidable? These include, but are not limited to: —

   A. Putting me, the appellant, in jail for 15 days until they extorted $2500.00 from me.

   B. Threatening me with jail, unless I accepted their open perjury and gave them $2700 the next morning, which I did.

   C. Threatening me with jail unless I sign a Warranty deed to my property in Florida to an assignee of Allen Kirshenbaum for $8,000 under an offer made me by a third party.

   D. Threatening me with jail unless I lift a Lis Pendans on property of mine in Coventry, R.I., which they sold to an associate of Allen Kirshenbaum for $55,000 under its value.

   E. Forcing me to put $40,000 into a "slush fund", which Edward Gallogly said would be established to assure that thousands of dollars would be given Allen Kirshenbaum for handling a "contumacous" and "obstrepterous" litigant for the court.

   F. Threatening me not to make any appeals for the thousands of dollars of damage, negligence, and vandalism willfully done to my Real Estate on direct orders of Judge Healey admitted to on the record.

   G. Selling one of my properties for about $50,000 under its value to a lawyer, without any orders from the court, and without any accounting to the court.

H. Giving $16,000 of my money being held in the Registry of the court to Louis Cosentino for being the court ordered Guardian Ad Litem. he spent approximately 4½ hours in counseling my son.

I. Giving $15,000 of my money to an associate of Allen Kirshenbaum for a non existent Buy and Sell Agreement, and for forcing me, the appellant, to buy my own properties for a premium over what Judge Robinson offered to buy the property for, and what a business associate of Mr. Kirshenbaum intended to buy the other property for.

J. Refusal to give me, the appellant, an accounting of the missing and unaccounted rent and other money collected by Allen Kirshenbaum, as court appointed "Commissioner" who was under court order to protect and preserve appellant's assets and properties, pay bills, mortgages and taxes, etc. (Over $50,000 is unaccounted for).

K. Willful libel and slander of appellant's person and property by allowing several properties to go to Tax Sales although there was thousands of dollars available to pay the taxes; by not paying the mortgage on time, and on one occasion tyring to force a mortgagee sale by not paying the mortgage at all, and by deliberately under orders from Edward Healey, allowing appellant's properties to be wasted, neglected, left vacant and open to vandalism, and the elements so as to bring appellant's name and reputation into disrepute with the Minimum Housing, neighbors and the community.

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INTRODUCTION

Appellant appeals a denial by the trial courts of Rhode Island and the Supreme Court of Rhode Island of a 'procedural right' given parties in a state court action by Title 28 USC 1441, 1443, and 1446 to "remove" their case to the UNITED STATES DISTRICT Court for their district, when they find, or suspect, that they will not be able to secure in their state courts, their civil rights guaranteed by the Constitution and/or federal laws. (See also 14 Wright & Miller, section 3727.)

The federal law guarantees its citizens that once the Petition for Removal has been filed, and written notices given, the state courts have no authority to take any further action in the case pursuant to 28 USC 1446(e).

In appellant's case, the clerk threw her Notice to him in the waste basket in front of witnesses, telling those present "that is what he thought of appellant's Removal." After ascertaining by competent authority that appellant had effected a Removal, the trial court deliberately ordered the parties under penalty and threats of incarceration and forfeiture of money and property to proceed in the trial court. The court also gave "Sovereign, Absolute and Judicial Immunity" to Allen Kirshenbaum, who though given the title of "Commissioner" was actually appointed by the court as a 'special prosecutor' to teach appellant a personal lesson that the courts of Rhode Island will no longer countenance "contumacous and obstrepuous" parties, and to warn others who hear of the case that the courts of Rhode Island are no longer "common law" courts but are courts of Discretionary Law with — as Mr. Kirshenbaum put into the Record — "The Law Being The Court, and the Word Of The Law Being the Judge".

The Supreme court after accepting 18 appeals and one Mandamus issued an opinion that the question was "blatantly frivolous" and didn't warrant their consideration. (Appendix A).

Appellant claims that there is nothing frivolous about her claim that pursuant to Title 28 USC 1446(e) that once a matter is removed to the U.S. DISTRICT COURT, jurisdiction of the case is removed from the state court, and ESTABLISHED in the Federal Court.

PARTIES TO THE CASE

Although the appeal is docketed as "*Gladys Cok v Leo Cok*", *Leo Cok* is a "passive party".

The moving party in this action is acknowledged to be *Louis Cosentino*. This was affirmed by Judge Selya, who was the district court judge in this matter. In a Memorandum and Order (Appendix D) he stated:

> "The removal was ostensibly effected from the Rhode Island Family Court (Providence County)."
>
> "Despite the caption which the petitioner has utilized here, the state court case bears an inverse caption, as Cosentino claimed there against Ms. Cok".

Louis Cosentino, (a former classmate of *Edward Healey* and *Edward Gallogly* at Providence College and later Boston University Law School, twenty years ago) became with the appointment of *Edward Healey* and *Edward Gallogly* to the then newly formed Family Court, "The Official Guardian Ad Litem" for the Family Court. In 1978, the year the Providence Journal investigated the trio, the newspaper found that year *Mr. Cosentino* had been paid $10,000.00 more than the Lt. Governor. By not recognizing the removal, the trial court charged the Appellant's Estate $16,000, and gave it to Mr. Cosentino for spending 4½ hours counseling her son Igor.

The party moved against by *Mr. Cosentino* is the appellant, *Gladys Cok*. *Gladys Cok* is the vice President of the Court Watchers of Rhode Island, a law school student, and one of growing number of individuals willing and able to bring their case and controversy to court in the hope that their case will effect the same changes in the administration of justice and direction as happened in the cases of Marbury v Madison, Gideon v Wainright, Near v Minnesota, Mapp v Ohio, Brown v Board of Education, Engle v Vitale, Furman v Georgia, Roe v Wade.

A third party to this matter is *Allen Kirshenbaum*. Although he is listed in the Atlantic Reporter as "Commissioner" and an attorney for "defendant" (533 A2d at 535), his appointment was made by the court to handle — as he said in the Record — the

"contumacous" and "obstreperous" *Gladys Cok*. The court was determined, and still is, to teach her a lesson for others to see that Discretionary Law exercised by the Court is above the law, and everyone shall bow to the authority of the court. Mr. Kirshenbaum put into the Records he was appointed a "Commissioner", but, as he said for the Record, the Supreme Court never established any criteria or duties for a "Commissioner". He was actually appointed, he said on the Record, to serve as a Special prosecutor to teach appellant and others that the R.I. Courts supercede the Law of the U.S. courts. The courts, he said, "cloaked him with a mantle of 'absolute, sovereign and judicial immunity, immunizing him from any tortuous claims of appellant for misuse of money belonging to her, and for the wanton and wilful destruction of her property so as to be able to sell it at "bargain basement prices" to friends, business associates, relatives, and in one case to another judge to teach her and others a lesson.

The fourth party to the case is *Thomas Fay*, who, as justice of the Family Court appointed *Allen Kirshenbaum* "Commissioner", with no bond, liability or responsibility except to the court. He ascertained that the action had been "Removed" to the U.S. district court for Rhode Island, notwithstanding which he ordered Mr. Kirshenbaum to proceed. As the hearings started he said, "Let The Fun Begin". (See Appendix).

The fifth party is *Edward Healey*, associate judge of the Family Court, who engineered and architectured a pattern of action designed to extort money from appellant by open purjury of Mr. Kirshenbaum and his witness, and by court orders that shocked the sensibilities of many court watchers. He finally "recused" himself when Senator Chaffee (United States) spoke to him about what was going on. He took the Removal half seriously, but considered that more weight was due to getting appellant and others to recognize that the authority and Word of the Rhode Island courts is absolute, and above Law and Constitution, than to worrying that the Law and Constitution be followed.

The sixth party is *Edward P. Gallogly*, (retired). On Judge *Healey's* recusal, he took over the torch, and gave from appellant's account in the Registry of the court $16,500 to *Louis Cosentino*. Thousands more to *Allen Kirshenbaum*, while ordering appellent to deposit $40,000 into a "slush fund". He plans to give this and other additional monies to *Allen Kirshenbaum* to teach her a good lesson. As the final trial judge, he refuses to give appellant one dollar from the more than $150,000 interest she has in her estate, telling her that he doesn't care what the decree of the court and the R.I. Supreme Court said.

Allen Kirshenbaum explained that under the Discretionary Law governing Rhode Island, the Law of Rhode Island is what the Court says the Law is, and the WORD of the Law is what the Judge says the Law is to be, irrespective of the Common Law, Constitutional Law or Statutory Law which would otherwise govern.

No. _____

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October Term, 1987

GLADYS COK
Appellant
v
LEO COK
Appellee

APPEAL FROM OPINION OF THE SUPREME COURT OF THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

JURISDICTIONAL STATEMENT

Appellant appeals this matter as a right from an "Opinion of the Rhode Island Supreme Court, pursuant to Title 28 USC 1252 and 1257(1).

The appeal is her prime hope for relief and reward for risking her freedom, her job, her property, her money, her health, her well-being, and that of her mother, so that Bench and Bar would have a well documented and Recorded record of the substitution of "Discretionary Law" for the "Common Law" under which Rhode Island is established by its Constitution.

OPINIONS BELOW

The opinion of the Supreme Court for the State of Rhode Island issue November 17, 1987 with the re-argument denied on January 14, 1988 is reported in 533 A2d 534. See Appendix A and B below.

GROUNDS OF JURISDICTION

This is a matter that appellant appeals as a right, pursuant to Title 28 USC 1252, and 1257(1) where there is drawn into question the validity of a statute of the United States.

Appellant appeals an "Opinion" of the Supreme Court of Rhode Island issued on November 17, 1987, and denied re-argument on January 14, 1988. The Opinion conflicts 100% with the provisions of federal laws codified in Title 28 USC 1446, 1443 and 1441, especially 1446(e), 1443 (1) and (2), 1441(c); but in particular with 1446(e). The Opinion is also in 100% differences with that court's own ruling in a national Landmark case entitled Cavanagh v Cavanagh, 380 A2d 964 issued in 1977 as a result of a Removal by then member Robert Cavanagh. In that case, the Supreme Court ruled:

> "Once removal procedure has been carried out, action in state court is automatically stayed and any proceedings there prior to federal remand order are absolutely void, despite subsequent determination that removal petition was ineffective. 28 USC 1446".

In the present case, the same Supreme Court, but with different justices, times and settings, and with "Discretionary Law" superseding the "common law", the Supreme Court decision issued says: — (Appendix A).

> "... Gladys Cok continues to insist that the family Court has lost jurisdiction
>
> "... She asserts again and again that the appointment of a commissioner to sell certain real estate owned by (the Coks) was void for lack of jurisdiction.
>
> "... The fact is that the Family Court at no time lost jurisdiction.
>
> "Furthermore, we confirm the appointment of the commissioner to act under the direction of the Family Court in these matters."

At no time has anyone questioned the validity of the Removal nor the fact that the Removal is still with the district court of Rhode Island, as the case was never remanded.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

United States Constitution

Article VI, Sec. 2 says in pertinent part that:

> "This Constitution and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

The Fourteenth Amendment, in pertinent part, provides:

> "... nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The Fifth Amendment, in pertinent part, provides:

> "No person... shall be... deprived of life, liberty, or property, without due process of law;..."

The Fourth Amendment, in pertinent part, provides:

> "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized".

Statute

The statute primarily involved in this matter is Title 28 USC 1446(e), which reads in pertinent part:

> "Promptly after the filing of such petition for the removal of a civil action and bond the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the petition with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded."

STATEMENT OF THE CASE

In 1984, Dr. Gladys Cok, personally, and as an officer of the Court Watchers of Rhode Island, was threatened to be incarcerated after volunteering her time, her money, her job, her reputation and her future well being to see: 'this case and controversy' through for the purpose of bringing to the attention of the Bench and Bar a very unhealthy trend and direction coming to fruition in the courts of Rhode Island — especially the family court. Some of these are:

1. A "scam" of the public and the state by the appointments of "Guardian ad Litems".
2. The manipulation of the courts by lawyers using the services and facilities of the courts for their own personal profit and the collective greed.
3. The emergence and open use of "Discretionary Law", supplanting the "Common Law" under which Rhode Island is supposed to be administered under its Constitution.

In the present case, the courts of Rhode Island after due and considered consideration have said to Appellant that the federal law regarding "Removals" does not govern in Rhode Island, and Title 28 of the U.S. Code 1446(e) has no effect on R.I. courts.

This case is unique in that Allen Kirshenbaum being aware of the Removal and being aware of the dangers inherent on this case for him in liability, — documented and Recorded everything said and done in this case — and by whom — making it a point to place as much of the blame for the damage and liability done appellant and her property, — on Edward Healey and Thomas Fay. The "Money Game" he blames on Edward Gallogly.

Appellant has endured four years of inhuman pressure brought by a court determined that contumacousness and obstreperousness shall be rooted out of people who use the courts for help and relief. Docility, conformity, Nazi Socialism, and Rule of the Court rather than the Rule of Law is the new trend for Rhode Islanders.

By asking this court to rule on whether the clear, unambiguous language of Title 28 USC 1446(e) prevails in this matter, and that action taken by the trial court while the matter was on Removal be declared null and void and voidable, this case tests the validity of what is known nationally as "The Rhode Island Shuffle" by stressing the Supremacy of Art. VI. Sec. 2.

THE QUESTION PRESENTED IS SUBSTANTIAL

On October 4, 1984, appellant Gladys Cok pursuant to the instructions outlined in Title 28 USC 1446(e), "Removed" a Motion made on September 18, 1984 by Louis Cosentino Guardian ad Litem appointed by the court that Commissioners be appointed to sell properties belonging to her so as to pay him $2000.00 he claimed appellant owed him as Guardian ad Litem in her divorce matter (Cok v Cok — decided in 1982 and heard by the Supreme Court in 1984).

1. She questioned the bill ($4000.00 for seeing her boy four times), and realized that his motion was part of the "scam" to get money without a hearing.

2. She made her "Removal" in good faith and belief that she should get a hearing in the federal court denied her in the trial court. She based her faith and belief on Title 28 USC 1441(c), and 1446(e), along with subject matter in 1443(1) & (2) civil rights.

3. Title 28 USC 1441(c) reads as follows:

> "Whenever a separate and independent claim or cause of action, which would be removable if sued upon alone, is joined with one or more otherwise non-removable claims or causes of action, the entire case may be removed and the district court may determine all issues therein, or, in its discretion, may remand all matters not otherwise within its original jurisdiction".

Title 28 USC 1446(e) reads as follows:

> "Promptly after the filing of such petition for the removal of a civil action and bond the defendant... shall give written notice thereof to all adverse parties and shall file a copy of the petition with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded."

Title 28 USC 1443(1) & (2) reads as follows:

> "Any of the following civil actions... commenced in a State court may be removed by the defendant to the district court of the U.S. for the district.

(1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the U.S., or of all persons within the jurisdiction thereof;

(2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground what it would be inconsistent with such law."

She made her "Removal" on the good faith and belief that the Judicial act of 1789, codified in Title 28 USC 1441, 1443 and 1446 would curb and infringe on the functions of the state court, so as to provide her with the protection she needed to have her case honestly heard on its merits. She didn't expect that the trial court would not respect the Removal in light of the fact that in 1977, the same basic court, in a similar matter of the Cavanaghs Cavanagh v Cavanagh, 380 A2d 964), ruled as follows:

(1) Orders of state court entered while petition for removal was pending in federal court were void, even though federal court determined that removal petition was ineffective.

(2) Where papers had been transmitted to Supreme Court and appeal had been docketed, family court had no authority to act on motion seeking sale of property and degrees it entered for sale were void.

Once removal procedure has been carried out, action in state court is automatically stayed and any proceedings there prior to federal remand order are absolutely void, despite subsequent determination that removal petition was ineffective(28 USC 1446).

In the Cavanagh case, Richard Cavanagh in 1977 had the very same problem with the court appellant is now having. In that case the parties were Judge Alprin and Isadore Kirshenbaum. The court at that time said that regardless of the removal by Mr. Cavanagh of his case to the district court, the Family court continued jurisdiction of the matter, and the trial court went forward and sold the property in the courtroom itself at an auction for $225,000. Mr. Cavanagh appealed to the Supreme court where the court ruled that "Orders of a state court entered while petition for removal was pending in federal court were void.

The family court had no authority to act on a motion seeking sale of property and the decree it entered for the sale was void. Once removal procedure has been carried out, the action in state court is automatically stayed".

As a result of the decision, a landmark case was forged, which the Supreme Court in this case wants to overturn on the basis that it is now acting under "Discretionary Law" rather than the "common law".

Mr. and Mrs. Cavanagh ultimately sold their property for $750,000 with no commission to Mr. Kirshenbaum or the court.

In appellant's case, the moving party is Allen Kirshenbaum.

The judge is Edward Healey. "Discretionary Law has replaced the "common law" in the court room. Judge Healey and other judges within the Family Court have in the words of Allen Kirshenbaum "cloaked him with a mantle of both sovereign and judicial immunity that immunizes him from all personal liability for any damage, lible or slander, destruction, mayham, malicious prosecution, false imprisonment, etc. that may result".

f. The court and Mr. Kirshenbaum want to sell property of Dr. Cok worth $500,000.00 for $150,000 to a Judge with $65,000 going to Kirshenbaum for his handling a "contumacous and obstrepuous" person who for the well being of the court must be taught a lesson.

Throughout its history, the court has come to the rescue of people who have removed cases to the federal courts because of their inability to get a form of justice in the state courts.

1. In Beecher v Wallace (1947), 381 F2d at 373 said:

> "The state court process becomes null and void on the date the action is removed to the federal court. (See also Allman v Hanley, 302 F2d 559, issued in 1962).

In its October Term in 1886, the Supreme court explained in the matter of Burlington R.R. v Dunn, Page 517 Opinion, that the reason for the removal of jurisdiction from the state court to the district court lies in the fact a case cannot be in two courts at the same time:

"Inasmuch as the petitioning party has the right to enter the suit in the Circuit court, notwithstanding the state court declines to stop proceedings, it is easy to see that if both courts can try the same issues of fact... the records from the two courts brought here for review will not necessarily always be the same.

"Such a state of things should be avoided if possible, and this can only be done by making one court the exclusive judge of the facts.

"It must rest with one court alone, and that, ... is more properly the Circuit court."

All Federal actions to enjoin a state enactment rests ultimately on the Supremacy Clause of Article 6, C1 2 of the U.S. Constitution. (See Swift & Co., 382 U.S. 111, 126 (1965) and Leroy, 443 U.S. (October term) at page 190.

As the court said in Burlington RR v Dunn on page 517 of the opinion of the court given during the October term of 1886, "If the State court declines to stop proceedings, it is easy to see that if both courts can try the issues of fact which may be made on the petition for removal, the records from the two courts will not always be the same. The testimony produced before one court may be entirely different from that in the other, and the decisions of both courts may be right upon the facts as presented to them respectively.

Such a state of things should be avoided if possible, and this can only be done by making one court the exclusive judge of the facts.

Upon that question there ought not to be a divided jurisdiction. It must rest with one court alone, and that, in our opinion, is more properly the 'district' court. See Act of March 3, 1875, c 137, 18 Stat. 470.

"The State court was wrong in proceeding with the suit, and for that reason".

The theory on which it rests is that the Record closes, so far as the question of removal is concerned, when the petition for removal is filed and the necessary security furnished. (See Ibid, page 516).

> "The assignment of errors presents, but a single question, and that is whether, as after the petition for removal had been filed the record showed on its face that the state court ought to proceed no further."

CONCLUSION

For these reasons, this Court should note probable jurisdiction of this appeal

Respectfully submitted
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Warwick, Rhode Island
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APPENDICES

APPENDIX A	Opinion of the R.I. Supreme Court as it relates to this matter.
APPENDIX B	Reargument by appellant denied by R.I. Supreme Court January 14, 1988
APPENDIX C	Notices of appeal from R.I. Supreme Court and Trial Court of R.I.
APPENDIX D	Removal docket sheets showing concurrent jurisdiction in violation of the removal procedure of Title 28 USC 1446(e).

APPENDIX A

Opinion of the Rhode Island Supreme Court

15281 November 17, 1987

Supreme Court
No. 84-585-Appeal.
No. 86-176-Appeal.
No. 87-155-Appeal.

GLADYS L. COK

v.

LEO COK.

O P I N I O N

PER CURIAM. These matters are before the Supreme Court on an order consolidating them and placing them on the show-cause calendar for argument.

In an interlocutory judgment Gladys Cok, Ph.D., and Leo Cok, M.D., were granted an absolute divorce based on irreconcilable differences following a protracted hearing in Family Court. Both parties appealed to this court. The Family Court proceeding was fully examined and discussed in our opinion in *Cok v. Cok*, 479 A.2d 1184 (R.I. 1984). In that appeal and in the matters now before us the parties have appeared without counsel.

Before the court at this time are, by Gladys Cok's own count, eighteen appeals by her from various actions and orders of the Family Court. Leo Cok presented oral argument on one issue and an attorney on his behalf submitted a memorandum and argued a separate issue.

We have reviewed in detail, the issues raised by Gladys Cok and we are of the opinion that all of them are blatantly frivolous. What we have here are attempts to appeal from orders that are interlocutory and effort to relitigate matters already decided in this court's opinion on the original appeal. Also, Gladys Cok continues to argue matters that have been finally adjudicated and which are not now before this court for review. An example of this last category is her relentless insistence that the Family Court had lost jurisdiction over this case as a result of her attempt at removal of the case to the United States District Court for the District of Rhode Island under 28 U.S.C.A. §1441 (1973).[1] In a written

decision and order, the United States District Court judge set forth in detail the reasons why this case was not removable. He ruled that the subject-matter jurisdiction of the Federal Court was never invoked, and he stated specifically that Gladys Cok's filings in the Federal Court were legally insufficient to effect removal. That decision and order became final when the United States Court of Appeals for the First Circuit ruled that was not reviewable. Nevertheless, Gladys Cok continues to insist that the Family Court had lost jurisdiction. She asserts again and again that the appoinment of a commissioner to sell certain real estate owned by these irrevocably estranged parties was void for lack of jurisdiction. The fact is that the Family Court at no time lost jurisdiction. Furthermore, we confirm the appointment of the commissioner to act under the direction of the Family Court in these matters. Another source of Gladys Cok's appeals is her insistence on a right to jury trial in these matters, all of which are ancillary to divorce proceedings, in which trial by jury has never been afforded.

We would point out to Gladys Cok that this court does not intend to entertain repeated, continuous, and frivolous appeals from every decision of the Family Court simply because she disagrees or disapproves of each one. The judicial officers of the state and the administrative personnel of our courts try at all times to be as helpful with and as understanding as possible of the procedural problems faced by pro se litigants. However, this policy of procedural leniency has its limits. We will not permit persons who abuse that policy to harass our personnel or monopolize their time with issues that are utterly without merit.

Leo Cok, like his former wife, continues to argue against the approval of a report and bill for services rendered by the guardian ad litem who was appointed by the Family Court for the minor child of the parties. In *Cok v. Cok*, 479 A.2d at 1190, this court approved the appointment of the guardian ad litem. We found that the action of the parties more than justified the appointment. We conceded that these appointments might well have made the cost of this litigation a heavier burden for the parties. However, we found that "[t]he stubbornness and unwillingness either to compromise or to cooperate on the part of the parties *** have indeed been expensive, not only in fees paid to counsel, but also in

additional fees to the guardian ad litem and the conservator as well. For this expense the parties have no one to blame but themselves." *Id.* We are still of that opinion.

1. Since only a defendant may remove a case, Gladys Cok, plaintiff in these proceedings, conveniently reversed the caption of the Family Court case in order to qualify as a defendant or respondent before the Federal Court.

APPENDIX B
Reargument by Appelant

SUPREME COURT

FILED

DEC. 7 P.M. 2:00

DR. GLADYS COK

v.

DR. LEO COK

84-585
86-176
87-155

PETITION FOR REARGUMENT (Rule 25) WITH MEMORANDUM

On November 17, 1987, the Rhode Island Supreme Court found that:

1. Dr. Gladys Cok made 18 appeals
2. Dr. Leo Cok, made one appeal
3. That all of Dr. Gladys' Coks appeals were blatently frivolous.

The Court gave two examples fo the blatently frivolous appeals:

1. The first example was that Dr. Gladys Cok relentiessly insisted that the Family Court had lost jurisdiction over the case as a result of her "attempt" at Removal under 28 USC 1441.
2. The second example that her appeals were blatently frivolous is her insistence that the appointment of Kirshenbaum as a Commissioner to sell certain real estate was void, because his appointment as a Commissioner to sell was made after the matter was removed to the federal district court for Rhode Island.

B. Following is a copy directly from the Opinion (Page 2).

November 17, 1987

SUPREME COURT

GLADYS L. COK

v.

No. 84-585-Appeal.
No. 86-176-Appeal.
No. 87-155-Appeal.

LEO COK.

Nevertheless, Gladys Cok continues to insist that the Family Court had lost jurisdiction.[1] *She asserts again and again that the appointment of a commissioner to sell certain real estate owned by these irrevocably estranged parties was void for lack of jurisdiction. The fact is that the Family Court at no time lost jurisdiction. Furthermore, we confirm the appointment of the commissioner to act under the direction of the Family Court in these matters.* Yet Mr. Kirshenbaum in his report says appellants removal was effected.

STATE OF RHODE ISLAND FAMILY COURT
KENT, SC.

GLADYS L. COK :

v. : F.C. No. K79-0343

LEO COK :

REPORT AND ACCOUNTING OF COMMISSIONER, 10/5/84 THROUGH 3/19/87

By order of Mr. Justice Fay on October 5, 1984 (Order entered by Macktaz, J. on October 11, 1984), *the late Melvin A. Chernick,* Esquire *and the undersigned were appointed co-commissioners to effectuate the sale of the real estate described in the Decision Pending Entry of Final Judgment (entered on March 19, 1982).*

Upon notification that Mr. Chernick and the undersigned had been so appointed, we reviewed the Family Court files. Shortly thereafter, *we were notified by plaintiff that the case had* ostensibly *been removed to the U.S. District Court for the District of Rhode Island and that were we to do anything with any of the properties, we would be subjected to suit. Mr. Chernick and the undersigned thereupon researched the file in the U.S. District Court, ascertaining at least initially that jurisdiction of the Family Court had been suspended or ousted pending determination of the validity of plaintiff's attempted removal. Notwithstanding this, however, the commissioners were notified by Mr. Justice Fay to proceed with the sale of the subject properties.*

B-4

U.S. DISTRICT COURT

Your case has been assigned to Judge Selya

Your case number is NOW

CA84-0543S

As of this date, no pleadings will be accepted for filing in the Clerk's Office unless the above number and initial of the Judge is typed on the pleading. Pltff's counsel is ordered to notify all counsel of the full and complete case number and judge assignment.

Frederick R. DeCesaris
Clerk

B-5

UNITED STATES DISTRICT COURT

FOR THE

DISTRICT OF RHODE ISLAND

DR. GLADYS L. COK :

vs. : C.A. No. 84-0543

LOUIS J. COSENTINO :

Mr. Clerk:

Enter my appearance as, specially, pro se for the Defendant, Louis J. Cosentino, in the above-entitled case. Dated at Providence on 19th day of October, 1984.

LOUIS J. COSENTINO
58 Weybosset Street
Providence, RI 02903 421-1011

of same and I did not sign for receipt of same.

LOUIS J. COSENTINO
58 Weybosset Street
Providence, RI 02903

UNITED STATES DISTRICT COURT — RHODE ISLAND

Dr. Gladys Cok :

v. : CA84-0543

Louis J. Cosentino

NOTICE OF REMOVAL

To the Clerk of the Family Court of and for the State of Rhode Island.

This is to certify that on October 4, 1984, the following matter was removed to the Federal Court for the District of Rhode Island.

The following papers were filed:

1. Petition for Removal
2. Bond
3. Memorandum of Law
4. A copy to the clerk of the Family Court
5. A copy to Louis Constantino
6. Copies of these papers are attached here to

Dr. Gladys Cok
1082 Greenwich Avenue
Warwick,
Rhode Island
TEL. (401) 738-0767

The Law is very clear about the fact that once a matter is removed to the federal district court for the district in which the state court is located, jurisdiction is removed to the federal court from the state court. The landmark case is this court's own decision in Cavanagh v Cavanagh. Following is a copy of the court's decision regarding Removals under Title 28 USC section 1446(e)... (Cavanagh's case).

B-7

SUPREME COURT OF RHODE ISLAND

Dec. 2, 1977

Violet M. CAVANAGH :

v. : No. 75-326-Appeal.

Robert D. CAVANAGH

Appeals were taken from three separate decrees of the Family Court, Alprin, J., relating to parcel of real estate owned by parties whose marriage had been declared void. The Supreme Court, Paolino, J., held that (1) orders of state court entered while petition for removal was pending in federal court were void, even though federal court determined that removal petition was ineffective, and (2) where papers had been transmitted to Supreme Court and appeal had been docketed, Family Court had no authority to act on motion seeking sale of property and decrees it entered for sale were void.

Appeal sustained, decrees appealed from vacated and case remanded.

1. Removal of Cases 97

Once removal procedure has been carried out, action in state court is automatically stayed and any proceedings there prior to federal remand order are absolutely void, despite subsequent determination that removal petition was ineffective. 28 U.S. C.A. § 1446.

The case was Removed timely and properly, and the court chose — according to Kirshenbaum's own record to ignore the Removal.

1. Gladys Cok's insistance that the case was removed is not frivolous and definitely is not blatantly frivolous.
2. Glady's Cok's insistence that the Family Court does not have jurisdiction accords with 28 USC 1446(e), and with Kirshenbaum's Report.

The Court claims that all of Dr. Cok's appeals are blatantly frivolous, and are appeals from interlocutory orders.

1. Gladys Cok made one appeal to the Supreme Court from "an order of Judge Fay to proceed with the sale of the subjects property". All the other appeals the court says was blatantly and frivolously made were made in defending her property from Mr. Kirshenbaum, who on his own remanded the case from the Supreme Court and then brought his own case against her even though he is court appointed.

2. Claiming that the "removal attempt had been denied, — which would not have changed the fact that while the removal is in the federal court, the family court had no jurisdiction over the matter, Kirshenbaum went to Judge Najarian, who then "reaffirmed the appointment of the commissioners, and ordered them to sell the subject properties."

   A. Kirshenbaum then says in this report "Plaintiff then appealed to the Supreme Court of R.I. from the appointment of the commissioners and the orders of Justice Najarian.

   WHAT IS BLATANTLY FRIVOLOUS ABOUT THIS?

0404H

Supreme Court
No. 84-585-A.
No. 87-155-A.
No. 86-176-A.

DR. GLADYS L. COK :

vs. :

LEO COK :

ORDER

The petition to reargue is denied.
Chief Justice Fay did not participate.

Entered as an Order of this Court this 14th day of January, 1988.

By Order,

Walter J. Kane
Clerk

APPENDIX C

Notices of Appeal to Supreme Court
From R.I. Supreme Court and R.I. Trial Court

Filed at the R.I. Supreme Court
on 1988, Jan. 5, 11:19 A.M.

Filed at the R.I. Family Court
on 1988, Jan. 5, A.M. 11:46

RULES

OF THE

Supreme Court of the United States

ADOPTED APRIL 14, 1980

EFFECTIVE JUNE 30, 1980

Including Revisions of November 21, 1980

PART IV. JURISDICTION ON APPEAL

Rule 10

Appeal — How Taken — Parties — Cross-Appeal

1. An appeal to this Court permitted by law shall be taken by filing a notice of appeal in the form, within the time, and at the place described by this Rule, and shall be perfected by docketing the case in this Court as provided in Rule 12.

2. The notice of appeal shall specify the parties taking the appeal, shall designate the judgment or part thereof appealed from, giving the date of its entry, and shall specify the statute or statutes under which the appeal to this Court is taken. A copy of the notice of appeal shall be served on all parties to the proceeding in the court where the judgment appealed from was issued, in the

manner prescribed by Rule 28, and proof of service shall be filed with the notice of appeal prescribed by Rule 10 is filed with the clerk of the court from whose judgment the appeal is taken within 90 days after the entry of such judgment and the case is docketed within the time provided in Rule 12. See 28 U.S.C. § 2101 (d).

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

NOTICE OF APPEAL FROM STATE COURT CIVIL CASE TO THE SUPREME COURT OF THE UNITED STATES

IN THE SUPREME COURT OF THE STATE OF RHODE ISLAND

DR. GLADYS L. COK, Appellant :

vs.

DR. LEO COK

Supreme Court Case #s
84-585 Den. 2-25-85
86-176 Den. 10-6-86
87-155 Den. 10-5-87

Others: Allen Kirshenbaum, Court appointed Commissioner to Sell

Louis Cosentino, Court appointed Guardian ad Litem

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

1. I hereby give notice that Dr. Gladys Cok, the appellant above named, hereby appeals to the Supreme Court of the United States from the final decree of the Supreme Court of Rhode Island, denying appellant and appellate review of the 18 appeals and one mandamus they forced her to take, as the Judges of the Trial court ordered their Chief Clerk, George Salome, not to recognize the appeals and to go forward with new motions presented by Allen Kirshenbaum and Louis Cosentino; and the Supreme Court Clerk refused to docket the appeals as they finally came to his court, claiming to have incorporated the appeals into the above numbered cases.

(Except that the number of the cases he claims to have incorporated the 18 cases and one mandamus don't exist in the computer printout).

2. Notice that Dr. Glays Cok, the appellant in the above matter, hereby appeals to the Supreme Court of the United States from the final decree of the Supreme Court of the State of Rhode Island, given her in writing by the Clerk of said court on the behalf of the Justices of that court, that the court is giving her ten (10) minutes as a matter of courteousy, to argue her 18 cases and one mandamus.

3. This appeal is taken pursuant to 28 USC 1257, Federal question being whether a matter that is timely Removed to the Federal District Court of Rhode Island, takes with it the Jurisdiction that would otherwise lie with the State court. The Supreme Court of Rhode Island, itself, in a landmark case, Cavanagh v Cavanagh, 119 R.I. 479; 380 A.2d 964 (1967) ruled that the docketing of a case in that court, divested the trial court of jurisdiction to act in the case even as to motions that would otherwise be appropriate for it to determine. They reaffirmed this decision in Hattie Carnegie Industries, Inc. v Lopreato, 114 R.I. 319; 333 A.2d 145 (1975), and Devereaux v McGarry's, Inc., 107 R.I. 325; 266 A.2d 908 (1970). The matter is also made part of Rhode Island Appellate Practice by the Hon. Joseph R. Weisberger of the Supreme Court of Rhode Island.

4. In my case the Supreme Court refused to even rule on my Writ of Mandamus, that Federal Law, as established by the first Congress established the Rules of Removal. This was re-affirmed after the Civil War, and after the Civil Rights movements of the 60's. They not only refuse to recognize the Federal Rules (28 USC 1446(e), and 1441 et seq.), but they refused to recognize their own rules of Appellate practice (page 36, R.I. Appellate Practice, Hon. Joseph R. Weisberger), that once a matter is appealed in the Trial Court, jurisdiction to hear the case further stay.

5. This is a case were the plaintiff and the defendant are divorced, and own four lots of land and two houses as Tenants in Common, and are stock holders in a piece of property owned by the Lara Cok Realty. The two Court appointed attorneys on their own through the use of Motions got the court on the grounds that appellant is "contumanous" to award them thousands of dollars from the property of appellant and appellee, and to force the sale of the corporate property to the real estate firm of one of the Judges involved in the case for $250,000.00 to $350,000 under its value — the property having been ordered "wasted, despoiled and devalued" over a two year period by several of the Trial Court judges. Mr. Kirshenbaum has been criminally arraigned for the "wasting and despoiling", but has documented that the Judges in the case and not he are the guilty ones. The court and the city bringing the suit are agreeing with him, and have unofficially indicted the Judge who has ordered the sale, and ordered the wasting on record.

6. Meanwhile the Supreme Court of Rhode Island is seeking to conceal the matter from the Record by not docketing the 18 appeals, and by giving me — only as a courteousy — 10 minutes to argue my appeals. (all 18 of them + my one mandamus that the court had no jurisdiction over this case as the matter had been timely removed (as the Record shows) to the district court of Rhode Island.

II.

1. The clerk will please prepare a transcript of the record in this cause for transmission to the Clerk of the Supreme Court of the United States, and include in said transcript the following:

   A. All the ex-parte remands made at the request of either Allen Kirshenbaum or Louis Cosentino.

   B. All motions made by Allen Kirshenbaum to this court

   C. All Orders made by Mr. Kane, especially the one vacating Justice Murrays Order that appellant could appeal the various orders gotten by Mr. Kirshenbaum on his remands.

D. Supreme Court orders 1 thru 5 or any others used by George Salome that vacate the Appellate rule that once a matter is docketed in the trial court jurisdiction is transferred to the appealed to court. Mr. Salome claims that the Supreme Court has vacated its own rule of appellate review, and has now in Rules 1-5 ordered that cases remain with the Trial court until the transcripts are forwarded, which transcripts are controlled by Mr. Salome, Chief Clerk at the Family Court, and can take from days to months depending on the circumstances, orders of the trial court justices and the whim of Mr. Salome and the Clerk of the Supreme Court.

E. The transcripts in this case

F. The Orders appealed from

G. Orders of the Supreme Court in favor of Mr. Kirshenbaum and Mr. Cosentino.

H. Orders of the Supreme Court in favor of appellant

I. Orders of the Supreme Court negative to Mr. Kirshenbaum

J. Orders of the Supreme Court negative to appellant.

III.

1. The following question is presented by this appeal:

> "Whether 28 USC 1446(e), and 1441 et seq. means what it says: that once a matter is docketed in the district court of Rhode Island as a Removal, the acts of the State Court following the Removal are null and void?"

IV.

Appellant wants her property, and under the 4th and 5th and 14th Amendments are guaranteed the rights and security of her property, which in this case is the result of a lifetime of savings and sacrifices, and is all that she and appellee have to leave to their child.

1. There is no state statute, nor is their federal subject matter that gives a court freedom to take property from a person and give it to "Officers of the Court", their friends and to other judges.

2. Appellant feels that this case meets the requirements of an appeal to the United States Supreme Court from Orders and Decrees of the Supreme Court of the State of Rhode Island designed to deprive her a right to an open record and appeal of the 18 appeals and one mandamus forced on her to make by that court.

Appellant asks that the Supreme Court gives consideration to her appeal. The judicial conditions in Rhode Island have received National attention from Mr. Dershowitz of Harvard. Appellant feels that the State Court had no jurisdiction over her case since the matter was Removed to the district court in Rhode Island.

Respectfully,

Gladys Cok
Appellant
1082 Greenwich Avenue
Warwick, R.I.
Telephone 1-(401)-738-0767

CERTIFICATION

I, Gladys Cok, Appellant, certify that I served nine (9) copies of this appeal notice to the Clerk of the Supreme Court, and I mailed a copy to Allen Kirshenbaum and to Louis Cosentino at their offices, and served a copy of Notice of Appeal to the Clerk of the Family Court, Providence County, Providence, Rhode Island.

Gladys Cok

APPENDIX D

REMOVAL -- DOCKET SHEETS
FROM U.S. DISTRICT COURT
AND FAMILY COURT SHOWING
CONCURRENT JURISDICTION

D-1

STATE OF RHODE ISLAND FAMILY COURT
KENT, SC.

GLADYS L. COK :

v. : Filed September 18, 1984

LEO COK :

MOTION

Now comes *Louis J. Cosentino*, Guardian Ad Litem of Igor Cok, and states as follows:

1. Paragraph Eleven of DECISION PENDING ENTRY OF FINAL JUDGMENT, entered on the 29th day of March 1982, ordered that certain properties owned by Plaintiff and Defendent *be sold* and the proceeds to be used in accordance with the Orders of the Court as enumerated in Paragraph Eleven.

2. By Order dated March 25, 1982, the Court apointed Joseph R. DeCiantis, Esq., and Albert John Mainelli, Esq., Co-commissioners to effectuate the sale of said real estate.

3. A subsequent Order of this Court vacated the appointments of the Co-Commissioners and Co-Commissioners have never been reappointed.

NOW THEREFORE, your Guardian Ad Litem prays as follows:

1. That this Honorable Court appoint Co-Commissioner to effectuate the sale of the properties as ordered by this Honorable Court.

2. That this matter be heard before Associate Jus. *Thomas F. Fay*.

LOUIS J. COSENTINO
58 Weybosset Street
Providence, RI 02903

The divorce decree reads as follows:

14 ...The Court having found that... the Guardian Ad Litem... were necessary... fees are to be paid from the proceeds of the sale of any of the properties which the Court has previously ordered sold and said fees are to be liens against those properties until the sale of sales are consumated.

On October 4, 1984 Appellant removed the motion to the U.S. District Court in Rhode Island.

The case was assigned to *Judge Selya.*

U.S. DISTRICT COURT

Your case has been assigned to Judge Selya

Your case number is NOW

CA84-0543S

As of this date, no pleadings will be accepted for filing in the Clerk's Office unless the above number and initial of the Judge is typed on the pleading. Pltff's counsel is ordered to notify all counsel of the full and complete case number and judge assignment.

Frederick R. DeCesaris
Clerk

Judge Selya of the district court affirmed the Removal in a *Memorandum* and *Order*.

UNITED STATES DISTRICT DOURT
FOR THE DISTRICT OF RHODE ISLAND

GLADYS COK :

v. : C.A. No. 84-0543-S

LOUIS J. COSENTINO :

MEMORANDUM AND ORDER

BRUCE M. SELYA, UNITED STATES DISTRICT JUDGE.

The above-captioned action was filed in this court on October 4, 1984.

[1]The removal was ostensibly effected from the Rhode Island Family Court (Providence County). Despite the caption which the petitioner has utilized here, the state court case bears an inverse caption, as Cosentino claimed there against Ms. Cok.

Notice was filed with George Salome, Clerk of the Trial Court on October 4, 1984.

UNITED STATES DISTRICT COURT — RHODE ISLAND

Dr. Gladys Cok :

v. : CA84-0543

Louis J. Cosentino

NOTICE OF REMOVAL

To the Clerk of the Family Court of and for the State of Rhode Island.

This is to certify that on October 4, 1984, the following matter was removed to the Federal Court for the District of Rhode Island.

The following papers were filed:

1. Petition for Removal
2. Bond
3. Memorandum of Law
4. A copy to the clerk of the Family Court
5. A copy to Louis Constantino
6. Copies of these papers are attached here to

Dr. Gladys Cok
1082 Greenwich Avenue
Warwick,
Rhode Island
TEL. (401) 738-0767

Mr. Salome threw the Notice into the wastebasket with the comment that the Trial Court does not recognize Federal Court Removals.

Notwithstanding the Removal on October 5, 1984, Thomas Fay heard Mr. Cosentino's motion and appointed Allen Kirshenbaum and Melvin Chernick co-commissioners. Order was signed October 11, 1984 by J. Macktaz.

STATE OF RHODE ISLAND FAMILY COURT
KENT, SC.

GLADYS L. COK

v. F.C. No. 79-0343

IGO COK

ORDER

This matter came on to be heard on the Motion of Louis J. Cosentino, Guardian Ad Litem of Igor Cok, on the 5th day of October, 1984, before Mr. Justice Fay and after hearing thereon, it is hereby

ORDERED

1. The Motion of Louis J. Cosentino for the appointment of Co-Commissioners is hereby granted and the Court hereby appoints Allen M. Kirshenbaum, Esq., and Melvin A. Chernick, Esq., as Co-Commissioners to carry out the Order of this Court to effectuate the sale of said real estate as described in the order dated March 19, 1982.

ENTERED as an Order of this Honorable Court this 11th day of October, 1984.

ENTER: J. Macktaz (See Docket Sheet)
JUSTICE

Presented by:
LOUIS J. COSENTINO

Co-Commissioners Allen Kirshenbaum and Melvin Chernick then researched the file in the U.S. District Court and found that "jurisdiction of the Trial Court had been suspended or ousted.

Notwithstanding this, the commissioners were notified by Thomas Fay to proceed with the sale of appellant's properties.

D-6

STATE OF RHODE ISLAND FAMILY COURT
KENT, SC.

GLADYS I. COK

v. F.C. No. K79-0343

LEO COK

REPORT AND ACCOUNTING OF COMMISSIONER,
10/5/84 THROUGH 3/19/87

By order of Mr. Justice Fay on October 5, 1984 (Order entered by Macktaz, J. on October 11, 1984), *the late Melvin A. Chernick*, Esquire *and the undersigned were appointed co-commissioners to effectuate the sale of the real estate described in the Decision Pending Entry of Final Judgment (entered on March 19, 1982).*

Upon notification that Mr. Chernick and the undersigned had been so appointed, we reviewed the Family Court files. Shortly thereafter, *we were notified by plaintiff that the case had* ostensibly *been removed to the U.S. District Court for the District of Rhode Island and that were we to do anything with any of the properties, we would be subjected to suit. Mr. Chernick and the undersigned thereupon researched the file in the U.S. District Court, ascertaining at least initially that jurisdiction of the Family Court had been suspended or ousted pending determination of the validity of plaintiff's attempted removal. Notwithstanding this, however, the commissioners were notified by Mr. Justice Fay to proceed with the sale of the subject properties.*

On October 17, 1984 appellant appeals Thomas Fay's order to the R.I. Supreme Court.

FAMILY COURT INFORMATION SYSTEM
DOMESTIC DOCKET
WEDNESDAY DECEMBER 30, 1987 3:50 PM

CASE NUMBER K79-0343 N/S DATE 01/25/88

Plaintiff Cok, Gladys	Attorney	DOB 09/25/22
Defendant Cok, Leo	Attorney PRO SE	DOB 07/01/22

D-7

FAMILY COURT INFORMATION SYSTEM
DOMESTIC DOCKET
WEDNESDAY DECEMBER 30, 1987 3:50 PM

CASE NUMBER K790343 N-S-DATE: 01-05-88

Plaintiff: Cok, Gladys Attorney: DOB: 09-25-28
Defendant: Cok, Leo Attorney: PRO, SE DOB: 07-01-22

09-18-84	Guardian Ad Litem Files Motion		
09-18-84	Case Transferred to Providence		
09-25-84	Deft Files Answer		
10-01-84	Case Returned from Supreme Court		
10-04-84	Plff Files Objection (Notice of Removal)		
10-05-84	HD on Guardian Ad Litem's Motion	Fay, T.	Granted
10-11-84	Order Entered	Macktaz, P.	
10-15-84	Deft Files Miscellaneous Motion		
10-17-84	Plft Files Appeal		

On October 19, 1984, Lois Cosentino acknowledges the Removal and enters his appearance "PRO-SE" in the U.S. District Court.

UNITED STATES DISTRICT COURT

FOR THE

DISTRICT OF RHODE ISLAND

DR. GLADYS L. COK :

vs. : C.A. No. 84-0543

LOUIS J. COSENTINO :

Mr. Clerk:

Enter my appearance as, specially, pro se for the Defendant, Louis J. Cosentino, in the above-entitled case. Dated at Providence on 19th day of October, 1984.

LOUIS J. COSENTINO
58 Weybosset Street
Providence, RI 02903 421-1011

of same and I did not sign for receipt of same.

LOUIS J. COSENTINO
58 Weybosset Street
Providence, RI 02903

On November 23, 1984, foreseeing problems, Mr. Chernick "Declines" the appointment to be co-commissioner.

STATE OF RHODE ISLAND FAMILY COURT
KENT, SC.

GLADYS L. COK :

v. : DIVORCE NO. K 79-0343

LEO COK :

DECLINA TION

The undersigned does hereby decline that certain appointment of Co-Commissioners set forth in an Order by Mr. Justice Fay on October 1984, entered by Mrs. Justice Macktaz on October 11, 1984, and affirmed by Mr. Justice Najarian on November 13, 1984.

Melvin A. Chernick

November 23, 1984

All through 1984 and 1985 Thomas Fay continued the case in the trial court, even though the matter was Removed to the U.S. District Court and was on appeal in the R.I. Supreme Court.

FAMILY COURT INFORMATION SYSTEM
DOMESTIC DOCKET
WEDNESDAY DECEMBER 30, 1987 3:50 PM

CASE NUMBER K790343 N-S-DATE: 01-05-88

Plaintiff: Cok, Gladys Attorney: Mullaney, Thomas C. DOB: 09-25-28
Defendant: Cok, Leo Attorney: PRO, SE DOB: 07-01-22

Date	Judge	Outcome
10-18-84	Plff Files Miscellaneous Motion	
10-19-84	Stipulation Filed	
10-23-84	3rd Party Misc Motion	
11-01-84	Deft Files Answer	
11-07-84	Plff Files Miscellaneous Motion	
11-08-84	Plaintiff Files Answer	
11-08-84	Plff Files Miscellaneous Motion	
11-13-84	Plft Files Appeal	
11-13-84	Passed for Entry of Order	Najarian, J.

11-19-84	Order Entered	Najarian, J.	
11-28-84	Order Entered		
11-29-84	Co-Commissioner Files Motion		
11-30-84	Plff Files Motion to Dismiss		
12-05-84	Plff Files Motion to Dismiss		
12-10-84	Plff Files Motion for Custody		
12-11-84	Plff Motion to Adjudge in Contempt		
12-11-84	Plff Files Miscellaneous Motion		
12-13-84	Plff Files Motion to Dismiss		
12-14-84	Plft Files Appeal		
12-14-84	Terms of Decree Read into Record	Gallogly, E.	
12-17-84	Case Transferred to Supreme Court		
12-21-84	Order Entered	Crouchley, R.	
12-21-84	Plff Motin to Adjudge in Contempt		
12-21-84	Plff Files Motion to Dismiss		
12-21-84	Plff Files Miscelleneous Motion		
12-24-84	Plft Files Monies for Transcript		
12-24-84	Plft Files Appeal		
12-24-84	Plff Motion to Adjudge in Contempt		
12-24-84	Plff Files Motion to Modify		
12-27-84	Plff Files Motion to Vacate		
12-31-84	Miscellaneous Complaint Filed		
01-03-85	Guardian Ad Litem Files Objection		
01-04-85	Guardian Ad Litem Files Objection		
01-04-85	Order Entered		
01-09-85	Plff Files Miscellaneous Motion		
01-10-85	Plff Files Objection		
01-11-85	Co-Commissioner Files Motion		
01-11-85	Deft Files Answer		
01-14-85	Plft Files Monies for Transcript		
01-16-85	Pltf Motion for Stay		
01-16-85	Plff Files Miscellaneous Motion		
01-16-85	Plff Obj. to Motion to Adjudge		
01-17-85	Plff Files Answer to Deft Motion		
01-17-85	Plff Files Miscellaneous Motion		
01-22-85	Continued by Agreement		
01-25-85	Co-Commissioner Files Motion	Fay, T	So Adjudged
01-25-85	Heard on Miscellaneous Motion	Fay, T.	Granted
01-25-85	Order Entered	Fay, T.	
01-25-85	Plft Files Appeal		
01-30-85	Order Entered		
02-04-85	Plft Files Monies for Transcript		
02-05-85	Order Entered	Najarian, J.	
02-05-85	Plff Files Objection to Order		
02-06-85	Ret of Service on Witness Subpoena		
02-11-85	Plff Files Motion to Amend		
02-12-85	Plff Files Miscellaneous Motion		
02-12-85	Deft Files Motion for Relief		
02-12-85	Transcript Filed		
02-14-85	Plff Files Miscellaneous Motion	Fay, T.	Dismissed

02-19-85	Co-Commissioner Files Motion		
02-19-85	Transcript Filed		
02-22-85	Case Passed		
02-22-85	Case Transferred to Supreme Court		
03-01-85	Continued by Agreement		
03-05-85	Plff Files Miscellaneous Motion	Fay, T.	Dismissed
03-05-85	Plff Files Motion to Modify	Fay, T.	Dismissed
03-05-85	Plff Files Motion to Vacate	Fay, T.	Dismissed
03-14-85	Deft Files Memorandum		
05-30-85	Deft Files Miscellaneous Motion	Fay, T.	Granted
06-14-85	Case Passed	healey, E.	
10-28-85	Plff Files Motion for Custody	Fay, T.	Dismissed
10-28-85	Plff Files Miscellaneous Motion		
10-28-85	Plff Files Motion for Support	Fay, T.	Dismissed
11-08-85	Deft Files Objection		
11-22-85	Continued by Agreement		
11-22-85	Cont'd-to be Hrd by:	Healey, E.	
11-27-85	Plff Files Motion for Custody	Fay, T	Dismissed
11-27-85	Plff Files Motion for Support	Fay, T.	Dismissed
12-09-85	Plff Motion to Adjudge in Contempt	Fay, T.	Denied
12-11-85	Con't-to be Hrd by:	Fay, T.	
12-11-85	Heard on Deft Motion for Custody	Fay, T.	Granted
12-11-85	Hd on Deft's Motin for Temp Allow	Fay, T.	Granted
12-11-85	Order to Withold Income-DR25	Fay, T.	
12-11-85	Plff Files Miscellaneous Motion		
12-11-85	3rd Party Misc Motion	Fay, T.	Continued
12-12-85	Order Entered	Fay, T.	
12-16-85	Cont'd-to be Hrd by:	Fay, T.	
12-16-85	Hd on Plff's Miscellaneous Motion	Fay, T.	Denied
12-16-85	Plff Files for Extension	Fay, T.	Granted
12-16-85	Plff Files Miscellaneous Motion		
12-26-85	Plft Files Appeal		

At the same time that action on the matter is taking place in the U.S. District Court in Rhode Island.

| | | |

DATE 1984	NR	PROCEEDINGS
10 04		Plntff's Petition for Removal and Jury. Two Notices of Removal Bond for removal. cg
10 15		Summons returned. 1h
10 23		Entry of Louis Cosentino for deft pro se. 1k
1 9		Memorandum & Order re: Action remanded to the family court entered. 1k
11 10		Pltff's m new trial.
11 20		ERRATUM: the memo and order of 11 09 84 is amended to delete the phrase "self ordained" p.3, 1.13. entered. 1h.
11 29		Pltff's m extended time to 12 4 84 to file memo. 1k
12 17		ORDER re: Pltff's m extend time denied. Action has been remanded to state court entered. 1k
11 29		Deft's obj to m extend time. 1k
12 28		Pltff's m reconsider memorandum & Order. 1k
1985		
1 2		Pltff's m reconsider, m dismiss, m recall any mandate.1k
1 14		Pltff's summary of m amend. 1k
1 14		Pltff's m amend. 1k
1 14		Pltff's m appeal.
1 14		FEES PAID receipt #10994.
1 17		Copy of docket and notice of appeal sent to 1st circuit. 1k
1 14		Pltff's m compel and order state court clerk to certify papers. 1k
1 21		Clerk's certificate. 1k
1 27		Pleadings sent to 1st circuit. 1k
1 29		Receipt from first circuit. 1h
6 60		Mandate: appeal is dismissed. 1h
6 60		Pleadings returned from first circuit. 1h

Meanwhile, during 1984 and 1985, Appellant made 6 of the 18 Appeals she made to the R.I. Supreme Court seeking relief. Her argument in all the appeals is that the R.I. Supreme Court in 1977, in a case exactly on point, and made by a former member of her group was that the law is very clear about the fact that once a matter is removed to the federal district court for the district in which the state court is located, jurisdiction is removed to the federal court from the state court. The landmark case is this court's own decision in Cavanagh v Cavanagh. Following is a copy of the court's decision regarding Removals under Title 28 USC section 1446(e)... (Cavanagh's case).

964 R.I. 380 ATLANTIC REPORTER, 2d SERIES

SUPREME COURT OF RHODE ISLAND

Dec. 2, 1977

Violet M. CAVANAGH :

v. : No. 75-326-Appeal.

Robert D. CAVANAGH

Appeals were taken from three separate decrees of the Family Court, Alprin, J., relating to parcel of real estate owned by parties whose marriage had been declared void. The Supreme Court, Paolino, J., held that (1) orders of state court entered while petition for removal was pending in federal court were void, even though federal court determined that removal petition was ineffective, and (2) where papers had been transmitted to Supreme Court and appeal had been docketed, Family Court had no authority to act on motion seeking sale of property and decrees it entered for sale were void.

Appeal sustained, decrees appealed from vacated and case remanded.

With each appeal Appellant reminded the R.I. Supreme Court of their finding in Cavanagh in which: —

On December 25, 1985, Louis Cosentino requests and is given an order that he is not a party to the case in the Trial Court of the state.

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS
PROVIDENCE, SC. FAMILY COURT

GLADYS L. COK :

v. : F.C. No. 79-0343

LEO COK :

Heard before Mr. Justice Fay on
16 DECEMBER 1985

APPEARANCES:

MR. COSENTINO:

I am not a party — I move that...

THE COURT: Granted.

Notwithstanding, Louis Cosentino continues to be active in both courts, and Appellant keeps making appeals to the R.I. Supreme Court: In 1986 she filed 6 more appeals. In 1987 more appeals.

In the U.S. District Court the case went into 1986 and then was filed.

9 86 Order re: M corsetti appeal denied. 1k
1 6 Order re: M amend denied entered. 1k
1 22 Petition for Temp. Inj against City of Providence.
1 22 Petition of Courtwatchers. 1k
1 22 M judge Selya recuse himself.
1 22 Petition for Temp Inj. against city denied, entered. 1k
1 22 Petition of courtwatchers denied, entered.
1 22 M Judge Selya recuse himself denied, entered. 1k
1 22 Order of inj. denied, entered. 1k

'Meanwhile, in violation of the Removal Statute (28 USC 1446(e)), Thomas Fay continued the matter throughout 1986. Sometimes he had Appellant in Court two times a week for the express purpose of extorting compliance from her by getting her fired from her Job as Director of the Medical Technician School of St. Joseph's Hospital.

01-02-86	Deft Motion to Adjudge in Contempt		
01-03-86	Order Entered		
01-07-86	Plft Files Monies for Transcript		
01-07-86	**Plft Files Appeal**		
01-13-86	Continued by Agreement		
01-21-86	Continued for Motions		
01-22-86	3rd Party Misc Motion	Fay, T.	Continued
01-23-86	Ordered Entered	Fay, T	
01-23-86	3rd Party Misc Motion	Fay, T.	Furth Hd &
01-28-86	Plff Files Motion to Modify		
01-29-86	Continued by Agreement		
01-30-86	Transcript Filed		
01-31-86	Continued by Agreement		
02-04-86	Hd on Deft's Motion for Rest. Orde	Fay, T.	Passed
02-04-86	Deft Motion to Adjudge in Contempt	Fay, T.	Passed
02-04-86	Deft's Motion for Restraining Orde	Fay, T.	Passed
02-04-86	Deft Files Motion for Support		
02-04-86	Hd on Deft's Motion to Adjudge	Fay, T.	Passed
02-04-86	Heard on 3rd Party Motion	Fay, T.	So Adjudged
02-04-86	Order to Withold Income-DR25	Fay, T.	Vacated
02-04-86	Review Set	Fay, T.	
02-04-86	Transcription Filed		
02-11-86	Deft Files Motion for Support	Fay, T.	Continued
02-20-86	**Deft Files Appeal**		
02-28-86	Continued by Agreement		
02-28-86	Order Entered	Najarian, J.	
03-06-86	Cont'd — to be Hrd by:	Fay, T.	
03-06-86	Order to Enter		
03-14-86	Ordered Entered	Fay, T.	
03-27-86	Con't — to be Hrd. by:	Fay, T.	
03-27-86	Plff Files Miscellaneous Motion		
04-03-86	Deft Files Miscellaneous Motion		
04-04-86	Body Attachment Ordered & Issued	Fay, T.	
04-03-86	**Plff Failes to Appear**		
04-04-86	Hd on Deft's Miscellaneous Motion	Fay, T.	Granted
04-04-86	Ordered Entered	Fay, T.	
04-04-86	Plff Files Entry of Appearance		
04-04-86	Plff Files Withdraw of Appearanc		
04-11-86	Case Transferred to Supreme Court		
04-14-86	Pltf Detained at ACI	Fay, T.	
04-14-86	Plff Appears Pursuant to B.A.		
04-14-86	Body Attachment Withdrawn	Fay, T.	
04-14-86	Writ Hab Corpus Ad Testificandum I	Fay, T.	
04-14-86	Plff Files Motion to Vacate		

04-15-86	Pltf Detained at ACI		
04-15-86	Heard on Pltf Mot to Vacate	Fay, T.	Denied
04-25-86	Writ Hab Corpus Ad Testificandum I	Fay, T.	
04-28-86	Cont'd — to be Hrd by:	Fay, T.	
04-28-86	Plff Files Appearance Co-Counsel		
04-28-86	Petf Pursuant to Habeas	Goldberg, W.	
04-28-86	Plff is Released	Goldberg, W.	
05-01-86	Continued by Agreement		
05-02-86	Order to Enter	Fay, T.	Continued
05-20-86	Deft Files Affidavit		
05-20-86	Deft Files Motion for Support		
05-22-86	Order Entered		
06-10-86	Cont'd — to be Hrd by:	Fay, T.	
06-17-86	Deft Motion to Adjudge in Contempt		
07-11-86	Heard on Review	Jeremiah, J.	Order to En
07-28-86	Order Entered		
08-27-86	Plff Files Miscellaneous Motion		
09-02-86	Heard on Deft Motion for Support	Macktaz, P.	Hd Pt & Con
09-02-86	Hd on Deft's Motion to Adjudge	Macktaz, P.	Hd Pt & Con
09-19-86	Plff Files Miscellaneous Motion		
09-02-86	Plff Files Motion to Vacate		
09-02-86	Ret of Service on Witness Subpoena		
09-25-86	Ret of Service on Witness Subpoena		
09-29-86	Plff Files Miscellaneous Motion		
09-30-86	Heard in Part and Continued	Goldberg, W.	Continued
09-30-86	Order Entered	Jeremiah J.	
10-02-86	Hd on Deft's Motion to Adjudge	Goldberg, W.	Hd Pt & Con
10-02-86	Refer to Investigation	Goldberg, W.	
10-07-86	Investigators Report Available		
10-10-86	Plff Motion to Adjudge in Contempt		
10-10-86	Plff Files Miscellaneous Motion		
10-10-86	Plff Files Objection to Order		
10-23-86	Further Hd on Deft's Motions	Goldberg, W.	Continued
10-23-86	**Plft Files Appeal**		
10-27-86	Order Entered		
10-28-86	Guardian Ad Litem Files Motion		
10-28-86	Plft Motion for Stay		
10-28-86	Plff Files Motion to Reassign		
10-29-86	Transcript Filed		
10-30-86	Case Passed		
10-31-86	Case Passed		
11-07-86	Plff Files Objection		
11-10-86	Deft Files Objecton		
11-10-86	Plff Files Objection		
11-07-86	Plff Files Motion for Visitation		
11-12-86	Guardian Ad Litem Files Objecton		
11-14-86	Co-Commissioner Files Objection	Macktaz, P.	Granted
11-14-86	Order Entered	Gendron, J.	
11-14-86	Plff Files Objection		
11-14-86	Plff Files Motion to Dismiss	Macktaz, P.	Continued
11-14-86	Plff Files Motion for Visitation	Macktaz, P.	Continued
11-17-86	Plff Files Motion to Dismiss		
11-18-86	Guardian Ad Litem Files Objection		
11-18-86	Plff Files Objection		
11-18-86	Hd on Pltff's Motion to Dismiss	Gallogly, E.	Grn Den In
11-18-86	Heard on Plff Motion for Visitatio	Gallogly, E.	Passed

On his elevation to the post of Chief Justice of the Rhode Island Courts, the job of teaching Appellant and others who might challenge the Absolute authority of the Court, and demand Constitutional, Statutory and Common Law Rights, was turned over first to Judge Mactaz, then Judge Goldberg and Jeremiah, and finally to Edward Healey who determined that every means — fair and foul — would be used to convince Appellant that the "Law is what the Court says it is, and that the WORD" of the Law is what the Judge says it is."

01-14-87	Hd on Deft's Micellaneous Motion	Macktaz, P.	Denied
01-14-87	Order Entered	Macktaz, P.	
01-14-87	Order to Enter		Continued
01-20-87	Case Passed		
01-20-87	Case Transferred to Providence	Najarian, J.	
02-02-87	Plft Files Monies for Transcript		
02-02-87	Plff Motion to Enter Final Judgemen		
02-04-87	Order Entered		
02-09-87	Deft Files Objection		
02-11-87	Deft Files Objection		
02-11-87	Deft Files Miscellaneous Motion		
02-12-87	Deft's Motion for Restraining Orde		
02-17-87	Co-Commissioner Files Motion		
02-17-87	Case Passed		
02-24-87	Continued by Agreement		
02-24-87	Plff Motion to Enter Final Judgmen	Jeremiah, J.	Denied
02-24-87	Terms of Decree Read Into Record	Jeremiah, J.	Order to En
03-10-87	Plff Motion to Adjudge in Contempt		
03-12-87	Transcript Filed		
03-16-87	Ret of Service o Witness Subpoena		
03-17-87	Continued by Agreement		
04-01-87	Co-Commissioner Files Motion		Out of Time
04-01-87	Report Filed		
04-03-87	Cont'd — to be Hrd by:	Crouchley, R.	
04-06-87	Cont'd — to be Hrd by:	Jeremiah, J.	
04-06-87	Order Entered		
04-08-87	Ret of Serv on Subpoena Duces Tecu		
04-10-87	Case Passed		
04-10-87	Plff Files Objection		
04-16-87	Order Entered		
04-22-87	Plff Files Objection to Order		
04-23-87	Continued for Motions	Healey, E.	

04-27-87	Plff Files Miscellaneous Motion		
04-29-87	Hd on Plff's Miscellaneous Motion	Healey, E.	Hd Pt & Con
04-29-87	Plff Files Miscellaneous Motion	Healey, E.	Denied
*04-30-87	*Final Judgement Entered	Healey, E.	
04-30-87	Further Hd on Plff's Motion	Healey, E.	Denied
04-30-87	Hd on Plff's Motion to Adjudge	Healey, E.	Denied
04-30-87	Hd on Plff's Miscellaneous Motion	Healey, E.	Denied
04-30-87	Plft Files Appeal		
05-01-87	Continued for Motions	Healey, E.	
05-01-87	Deft Files Entry of Appearance		
05-01-87	Further Hd on Deft's Motion	Healey, E.	Denied
06-11-87	Report Filed		
06-17-87	Heard on Co-Commissioner's Motion	Healey, E.	Continued
06-17-87	Hd on Plff's Miscellaneous Motion	Healey, E.	Denied
06-17-87	Hd on Plff's Motion to Dismiss	Healey, E.	Denied
06-17-87	Plff Files Motion to Dismiss		
06-17-87	Plff Files Miscellaneous Motion		
06-19-87	**Plft Files Appeal**		
06-22-87	Cont'd — to be Hrd by:-		
06-22-87	Heard on Co-Commissioner's Motion	Healey, E.	Granted
06-25-87	**Plft Files Appeal**		
07-02-87	Plff Files Objection		
07-02-87	Plff Files Miscellaneous Motion		
07-02-87	Plff Files Objection to Order		
07-07-87	Heard on Co-Commissioner's Motion		
07-07-87	Hd on Plff's Miscellaneous Motion	Healey, E.	Denied
08-17-87	Plff Files Objection to Order		
08-18-87	Co-Commissioner Files Motion		
09-29-87	Plff Files Miscellaneous Motion		
12-02-87	Deft Files Miscellaneous Motion	Healey, E.	
12-04-87	Guardian Ad Litem Files Motion	Healey, E.	
12-07-87	Order Entered		
12-11-87	Continued for Motions	Healey, E.	
12-14-87	Plff Files Objection		
12-16-87	Co-Commissioner Files Motion		
12-16-87	Decision Entered	Healey, E.	
12-21-87	Cont'd — to be Hrd by:	Gallogly, E.	
12-28-87	Order Entered		
12-30-87	Plff Files Misc. Motion		

On November 17, 1987, the Supreme Court of R.I. rendered a decision that the issue raised concerning the removal of the matter from the Trial Court to the U.S. District Court are "blatantly frivolous."

Judge Gallogly — for the Record — said that as a rule, the U.S. Supreme Court will not seriously consider a matter emanating from a Family Court. The Record of this case shows that on one occasion, Judge Shea of the R.I. Supreme Court spoke with the Family Court before the Supreme Court (R.I.) rendered its decision which was in accord with the wishes of the Family Court.

The practical result, Judge Gallogly says, is that the Family Court in R.I. is the Trial Court, the Court of Reconsideration, and the Final Court of Appeal — all in one. Therefore, he could see no reason for the niceties of allowing Appellant procedural appeals, when the final result is that "What the court says the Law is, is what the Law is, and that the "WORD" of the judge determines the Law — Constitution, Statutes, Common Law — notwithstanding.

Allen Kirshenbaum explained this to appellant, when he put $40,000 of Appellant's money into a slush fund for Judge Gallogly to give him, along with taking $15,195 for a business associate.

APPEARANCES:

FOR GLADYS L. COK .. GLADYS L. COK, PRO SE
FOR LEO COK ..... LEO COK, PRO SE
FOR FLEET NATIONAL BANK . SICARD & BRUZZESE
BY: RUSSELL R. SICARD, ESQUIRE

MRS. COK: *May I ask a question, please: When did you sign the listing agreement with Ms. Gallucci?*

MR. KIRSHENBAUM: *I don't have that part of the file.*

MRS. COK: *I am interested to have that.*

MR.KIRSHENBAUM: *Mrs. Cok, I have about 30 inches of files.*

MRS. COK: *That's important because we are going to pay a commission here.*

MR. KIRSHENBAUM: *That's the order of Judge Gallogly. I don't have it with me, ma'am.*

MRS. COK: *Would you send me it, please? Will you provide me with a copy of the sales agreement with Gallucci?*

MR. KIRSHENBAUM: *I think I better wait. If Judge Gallogly says I should, I will.*

MRS. COK: *I am entitled to have a copy, Mr. Kirshenbaum.*

MR. KIRSHENBAUM: *You may be right.*

MRS. COK: *I am right.*

MR. KIRSHENBAUM: *But I have to answer to the court.*

MRS. COK: *You have to answer also to the law.*

MR. KIRSHENBAUM: *I have to answer to the law. The court is the law. If Judge Gallogly tells me to, I will.*

Supreme Court, U.S.
FILED
AUG 15 1988
JOSEPH E. SPANIOL, JR.
CLERK

(2)

No. 87-1892

In The
Supreme Court of the United States
October Term, 1987

GLADYS COK,

Petitioner,

v.

LEO COK, *et al.*,

Respondents.

MOTION TO DISMISS APPEAL FROM THE SUPREME COURT OF THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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QUESTION PRESENTED

DID THE PETITIONER FAIL TO SATISFY THE REQUIREMENTS OF 28 U.S.C. § 1441 *ET SEQ.* AND THEREFORE THE RHODE ISLAND FAMILY COURT RETAINED JURISDICTION OVER PETITIONER'S SUIT AT ALL TIMES?

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STATEMENT OF THE CASE

Petitioner, GLADYS COK and LEO COK were granted an absolute divorce on the grounds of irreconcilable differences on March 25, 1982. Because of the acrimonious and completely uncooperative attitude of both parties, the Court was required to appoint a Guardian Ad Litem, Louis J. Cosentino. The Court ordered that reasonable fees of said appointee were to be paid from the proceeds from the sale of the real estate of the parties. Both parties appealed to the Rhode Island Supreme Court and filed briefs pro se ipso. The lower Court's decision was upheld. See *Cok v. Cok,* 479 A.2d 1184 (R.I. 1984).

On or about October 4, 1984 petitioner attempted to file a defective petition of removal in the United States District Court for the District of Rhode Island under 28 U.S.C. § 1441 (1973). On November 9, 1984, the Court sua sponte rejected the petition as being defective and remanded the petition to State Family Court. See *Cok v. Cosentino,* No. 84-0543-S, Slip. Op. (D.R.I. Nov. 9, 1984). This Decision and Order became final when the United States Court of Appeals for the First Circuit ruled that it was not reviewable.

As petitioner had at no time removed the action from the jurisdiction of the State Family Court, Judges Healey, Gallogly, and Fay continued to enter orders in petitioner's case. The Family Court appointed Allen Kirshenbaum to the role of Commissioner to handle the sale of the aforementioned real estate. Petitioner filed eighteen (18) appeals from various actions and orders of the Family Court on the basis of lack of jurisdiction. The Rhode

Island Supreme Court consolidated these appeals and addressed them in *Cok v. Cok*, 533 A.2d 534 (R.I. 1987). The Court held that jurisdiction had remained in the Family Court and that the issues raised by petitioner were blantantly frivolous.

———o———

ARGUMENT

NO REMOVAL WAS EFFECTED AS THE PETITIONER TO SATISFY THE REQUIREMENTS OF 28 U.S.C. 1441 ET SEQ. AND THEREFORE THE RHODE ISLAND FAMILY COURT HAD RETAINED JURISDICTION OVER PETITIONER'S SUIT AT ALL TIMES.

The right of removal from a State Court to a Federal Court exists only in certain enumerated classes of action. Unless the petition for removal shows on its face that the underlying action falls into one of the enumerated classes it will not be removed. 28 U.S.C. 1441.

The underlying action in the instant case arises out of a domestic relations suit. It is well settled that domestic relations actions are purely state matters. See *Anderson v. State of Nebraska*, 530 F. Supp. 19 (D. Neb. 1981); *Blank v. Blank*, 320 F. Supp. 1389 (W.D. PA. 1971). Matters that are non-severable and ancillary to divorce proceedings are also deemed to be outside of federal jurisdiction. *E.g., In Re Marriage of Pardee*, 408 F. Supp. 666 (C.D. Cal. 1976); *Druen v. Druen*, 247 F. Supp. 754 (D. Colo. 1965).

Assuming, arguendo, that petitioner had stated a federal question in her petition for removal, it would still be ineffective as she failed to satisfy the procedural require-

ments of 28 U.S.C. § 1446(a)(b) and (d). Petitioner never filed a "verified" petition 28 U.S.C. § 1446(a); it was not accompanied by "a short and plain statement of the facts which entitle [her] to removal", *Id.*, nor by "a copy of all process, pleadings and order served . . . in such [underlying] action." *Id.*

There is nothing in the record to suggest that Ms. Cok filed her petition within thirty (30) days of receiving either a copy of the initial pleading upon which such action is based within thirty (30) days after receipt of an amended pleading. "'(T)he time limitation is mandatory and must be strictly applied and where a party fails to file a petition within the applicable time limits (s)he is [thereafter] precluded from doing so.'" *Gorman v. Abbot Laboratories*, 629 F. Supp. 1196, (D.R.I. 1986) quoting *Perrin v. Walker*, 385 F. Supp. 945, 948 (E.D. Ill. 1974).

Petitioner also failed to post a bond in the proper form with sufficient surety. 28 U.S.C. 1446(d).

It is well settled that once the requirements for removal are fulfilled and the requisite notice is given the District Court has exclusive jurisdiction over the case. See *Berberian v. Gibney*, 514 F.2d 790 (1st Cir. 1975); *Cavanagh v. Cavanagh*, 119 R.I. 479, 380 A.2d 964 (1977). In the instant case the requirements of 28 U.S.C. § 1441 et seq. were not fulfilled; hence there was no removal and the Rhode Island Family Court never lost jurisdiction over the case. To allow Ms. Cok her appeal would allow her to continue her series of

> "repeated, continuous, and frivolous appeals from every decision of the Family Court simply because

she disagrees or disapproves of each one. The judicial officers of the state and the administrative personnel of our courts try at all times to be as helpful with and as understanding as possible of the procedural problems faced by pro se litigants. However, this policy of procedural leniency has its limits. We will not permit persons who abuse that policy to harass our personal or monopolize their time with issues that are utterly without merit." *Cok v. Cok*, 533 A.2d 534 (R.I. 1987).

CONCLUSION

For the foregoing reasons petitioner's appeal must be denied.

Respectfully submitted,

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Attorneys for the Respondents

APPENDIX A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

GLADYS COK	)	
	)	
v.	)	C.A. No.
	)	84-0543-S
LOUIS J. COSENTINO	)	

MEMORANDUM AND ORDER

BRUCE M. SELYA, United States District Judge.

The above-captioned action was filed in this court on October 4, 1984, supposedly as a removed case in furtherance of 28 U.S.C. §§ 1441 et seq.[1] This court has recently had occasion to conduct an initial review of the civil action file. In so doing, the court is mindful that the petitioner, Gladys Cok, appears pro se; thus, her pleadings must be viewed more tenderly than those of a represented party. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). Yet, this ruthfulness knows some bounds; the duty to be less stringent with pro se pleadings does not require the court to conjure up unpled allegations or to twist what is readily apparent to fit a pro se suitor's distorted view of the world. *E.g., McDonald v. Hall*, 610 F.2d 16, 19 (1st Cir. 1979).

The papers in this cause reflect an almost total lack of appreciation on Ms. Cok's part of the conceptual under-

---

[1]The removal was ostensibly effected from the Rhode Island Family Court (Providence County). Despite the caption which the petitioner has utilized here, the state court case bears an inverse caption, as Cosentino claimed there against Ms. Cok.

pinnings of federal removal jurisdiction, as well as a blithe disregard of the applicable legal requirements. To identify but a few of the petitioner's many failings:

(1) The petition for removal in no way shows that the underlying action is one of which this court had "original jurisdiction." 28 U.S.C. § 1441(a).

(2) The underlying action is one ancillary to a matrimonial proceeding in the Rhode Island Family Court. It is well settled that such domestic disputes are not removable. *E.g., Matter of Marriage of Smith,* 549 F. Supp. 761 (W.D. Tex. 1982); *Estilette v. Estilette,* 402 F. Supp. 1078 (W.D. La. 1975). Jurisdiction is likewise to be eschewed vis-a-vis non-severable matters ancillary to divorce proceedings. *E.g., In re Marriage of Pardee,* 408 F. Supp. 666 (C.D. Cal. 1976); *Druen v. Druen,* 247 F. Supp. 754 (D. Colo. 1965). A suitor cannot "use a federal forum as a panacea for [her] matrimonial ills." *Rawlinson v. State,* C.A. No. 84-0495-S, slip op. at 4 (D.R.I. Sept. 17, 1984).

(3) The procedure for removal, 28 U.S.C. § 1446, has been grossly abused. The petition was not "verified," 28 U.S.C. § 1446(a); it was not accompanied by "a short and plain statement of the facts which entitled [her] to removal," *id.*, nor by "a copy of all process, pleadings and orders served . . . in such [underlying] action." *Id.* The petition is otherwise defective. In short, the petitioner has substituted her own vision of the removal universe for that promulgated by the Congress.

(4) It nowhere appears that the removal was effected within the time limits mandated by 28 U.S.C. § 1446

(b); nor do facts appear from which this court can so conclude.

(5) The removal was not accompanied by a bond in proper form with sufficient surety. 28 U.S.C. § 1446(d). As Gertrude Stein observed, "a rose is a rose is a rose;" but the petitioner's purported bond is not a bond at all. Its contents are overly vague. *Cf. Alexandria National Bank v. Willis C. Bates Co.*, 160 F. 839 (C.C. Va. 1908). And, it is signed by a self-proclaimed minister[2] without so much as a half-hearted swipe at compliance with the applicable strictures. *See* Local Rule 38 of this court.

(6) Ms. Cok has chosen completely to ignore the imperatives of Local Rule 36(b) of this court.

No useful purpose would be served by attenuating the list of deficiencies. It suffices to say that, as the taxonomy set out above plainly shows, the petitioner seeks to plunge this court headlong into maelstrom of what she herself describes as a "long and prolonged divorce situation," Petition ¶ 1, without so much as a colorable predicate for so doing. If permitted to endure, such a heavy-handed intrusion into the disciplined operation of the state family court would, on this record, be a flagrant abuse of federal judicial power. *Cf. Middlesex County Ethics Committee*, 457 U.S. 423 (1983). As this court remarked in *Gordon, supra* (554 F. Supp. at 799):

> Historically, it has been the policy of the federal courts to allow the state judicial system to conduct its proceedings free from federal interference. . . .

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[2]The Reverend Gordon is no stranger to this court. *See, e.g., Gordon v. Crouchley*, 554 F. Supp. 796 (D.R.I. 1982).

See also Rawlinson, supra, slip op. at 2-4. To permit Ms. Cok to use a federal forum at her whim as an instrument to torture her opponents and to bedevil and confound the orderly administration of the law by the state courts would not be justice; it would be, charitably viewed, a caricature of justice. And, this court will neither buy Ms. Cok's cartoons nor play her capricious game.

While no motion to dismiss or to remand the instant action is pending, the federal district court has an independent duty to ascertain whether its subject matter jurisdiction has been properly invoked. *Martin v. Wilkes-Barre Pub. Co.,* 567 F. Supp. 304 (M.D. Pa. 1983); *Fort v. Ralston Purina Co.,* 452 F. Supp. 241 (E.D. Tenn. 1978). The court, sua sponte, has the right and the obligation to raise jurisdictional or kindred defects apparent on the face of the removal papers. *VanHorn v. Western Electric Co.,* 424 F. Supp. 920 (E.D. Mich. 1977); *Dunkin Donuts v. Family Enterprises, Inc.,* 381 F. Supp. 371 (D. Md. 1974). *See generally* 28 U.S.C. § 1447(c). So here, the infirmities of the removal being visible to the blindest of eyes.

The instant action was improvidently removed and the filings in this court were legally insufficient to effect removal. The case is remanded in its entirety to the Rhode Island Family Court (Providence County); and the clerk of this court shall mail a certified copy of this

order to the clerk of said court. *See id.* The state family court may proceed unhindered with the case.

It is so ordered.

Enter:

/s/ Bruce M. Selya
BRUCE M. SELYA
United States District Judge

November 9, 1984

APPENDIX B

Gladys L. COK,

v.

Leo COK,

Nos. 84-585-Appeal, 86-176-Appeal and 87-155-Appeal.
Supreme Court of Rhode Island.

Nov. 17, 1987.

Gladys L. Cok, pro se.
Leo Cok pro se.

OPINION

PER CURIAM.

These matters are before the Supreme Court on an order consolidating them and placing them on the show-cause calendar for argument.

In an interlocutory judgment Gladys Cok, Ph.D., and Leo Cok, M.D., were granted an absolute divorce based on irreconcilable differences following a protracted hearing in Family Court. Both parties appealed to this court. The Family Court proceeding was fully examined and discussed in our opinion in *Cok v. Cok,* 479 A.2d 1184 (R.I.1984). In that appeal and in the matters now before us the parties have appeared without counsel.

Before the court at this time are, by Gladys Cok's own count, eighteen appeals by her from various actions and orders of the Family Court. Leo Cok presented oral argument on one issue and an attorney on his behalf submitted a memorandum and argued a separate issue.

We have reviewed in detail, the issues raised by Gladys Cok and we are of the opinion that all of them are blatantly frivolous. What we have here are attempts to appeal from orders that are interlocutory and efforts to relitigate matters already decided in this court's opinion on the original appeal. Also, Glayds Cok continues to argue matters that have been finally adjudicated and which are not now before this court for review. An example of this last category is her relentless insistence that the Family Court had lost jurisdiction over this case as a result of her attempt at removal of the case to the United States District Court for the District of Rhode Island under 28 U.S.C.A. § 1441 (1973).[1] In a written decision and order, the United States District Court judge set forth in detail the reasons why this case was not removable. He ruled that the subject-matter jurisdiction of the Federal Court was never invoked, and he stated specifically that Gladys Cok's filings in the Federal Court were legally insufficient to effect removal. That decision and order became final when the United States Court of Appeals for the First Circuit ruled that it was not reviewable. Nevertheless, Gladys Cok continues to insist that the Family Court had lost jurisdiction. She asserts again and again that the appointment of a commissioner to sell certain real estate owned by these irrevocably estranged parties was void for lack of jurisdiction. The fact is that the Family Court at no time lost jurisdiction. Furthermore, we confirm the appointment of the commissioner to act under the direction

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1. Since only a defendant may remove a case, Gladys Cok, plaintiff in these proceedings, conveniently reversed the caption of the Family Court case in order to qualify as a defendant or respondent before the Federal Court.

of the Family Court in these matters. Another source of Gladys Cok's appeals is her insistence on a right to jury trial in these matters, all of which are ancillary to divorce proceedings, in which trial by jury has never been afforded.

We would point out to Gladys Cok that this court does not intend to entertain repeated continuous, and frivolous appeals from every decision of the Family Court simply because she disagrees or disapproves of each one. The judicial officers of the state and the administrative personnel of our courts try at all times to be as helpful with and as understanding as possilbe of the procedural problems faced by pro se litigants. However, this policy of procedural leniency has its limits. We will not permit persons who abuse that policy to harass our personnel or monopolize their time with issues that are utterly without merit.

Leo Cok, like his former wife, continues to argue against the approval of a report and bill for services rendered by the guardian ad litem who was appointed by the Family Court for the minor child of the parties. In *Cok v. Cok,* 479 A.2d at 1190, this court approved the appointment of the guardian ad litem. We found that the action of the parties more than justified the appointment. We conceded that these appointments might well have made the cost of this litigation a heavier burden for the parties. However, we found that "[t]he stubbornness and unwillingness either to compromise or to cooperate on the part of the parties * * * have indeed been expensive, not only in fees paid to counsel, but also in additional fees to the guardian ad litem and the conservator as well. For this

expense the parties have no one to blame but themselves." *Id.* We are still of that opinion.

The final issue, one briefed and argued by counsel for Leo Cok, may have merit. After the hearing on the cross-petitions for divorce, the Family Court awarded both parties joint custody of the minor child with physical possession to Gladys Cok. That judgment also assigned the marital domicile to her so that she, as the custodial parent, would have the use of that residence free and clear of any encumbrances. This was done, in part, to provide a secure and acceptable setting in which the child could be raised and to enable the mother "to sufficiently maintain herself and the child with her income and the child support presently ordered."

However, in December of 1985 a justice of the Family Court, after hearing, awarded custody and physical possession of the minor child to the father. And, to effectuate the child's wishes fully, the court awarded physical possession of the marital domicile to Leo Cok so that the child could live in what was his home in his father's custody.

Later, in an order dated March 14, 1986, another judge of the Family Court vacated the earlier order awarding possession of the marital domicile to Leo Cok for the benefit of the child. This judge stated that the court had no further jurisdiction over the marital domicile that had been conveyed to Gladys Cok by a commissioner appointed by the court pursuant to the original divorce decree.

Counsel for Leo Cok cites G.L. 1956 (1985 Reenactment) § 8-10-3 which provides in part that the Family Court could hear and determine

> "other matters arising out of petitions and motions relative to real and personal property in aid thereof * * * and such other equitable matters arising out of the famliy relationship, wherein jurisdiction is acquired by the court by the filing of petitions for divorce."

Consequently, he argues, the Family Court justice was in error in concluding that property once assigned under G.L. 1956 (1981 Reenactment) § 15-5-16.1, as amended by P.L. 1982, ch. 403, § 1 is not subject to the jurisdiction of the court when changed circumstances necessitate that the property be made available for use of a child of the parties and the new custodial parent. Since we conclude that the trial justice who denied Leo Cok's motion to require Gladys Cok to vacate the premises may have based his decision on an error of law, we sustain Leo Cok's appeal on that issue and vacate the order denying Leo Cok's motion to vacate and remand that issue to the Family Court for reconsideration. All other appeals are denied and dismissed, and the papers of this case are remanded to the Family Court for further proceedings.

FAY, C.J., and MURRAY, J., did not participate.

Supreme Court, U.S.
FILED
SEP 24 1988
JOSEPH F. SPANIOL, JR.
CLERK

No. 87-1892

IN THE

Supreme Court of The United States

October term 1987

GLADYS COK
Appellant
v.
LEO COK
Appellee

OBJECTION TO MOTION TO DISMISS

Dr. Gladys Cok
Pro-Se
1082 Greenwich Avenue
Warwick, Rhode Island
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QUESTION PRESENTED

I.
PETITIONER'S QUESTIONS

Petitioner's question is whether the mandates of section 1446(e) that once a matter has been removed from the trial court to the U.S. district court, action in the state court ceases at the point the removal is effected, and jurisdiction of the case is transferred to the district court when:

1. Petitioner is a court watcher who has volunteered time, money, and talent to bring a case and controversy to the courts for the purpose of bringing the attention of both Bench and Bar to glowing wrongs within their own system.

2. Respondents are two retired justices, one active judge, two lawyers who have been cloaked with a mantle of absolute, sovereign and judicial immunity relieving them of all liability for any damage, libel or slander of property or person owed by them to petitioner; and the clerk of the trial court who threw petitioner's removal notice in the waste basket saying that the trial court deferred to no one — including the federal court, that the trial court — in this case a family court — was itself the alpha and omega of the Law. This same sentiment was echoed for the record by one of the judges.

Petitioner if of the opinion that in a removal matter, both the bench and bar should respect and honor the plain language of the law. Section 1446(e) (1982) of title 28 says that "Promptly after the filing of a petition for the removal of a civil action and bond, the defendant shall give written notice thereof to the adverse parties and shall file a copy of the petition with the clerk of such state court, which shall "effect" the removal and the State court shall proceed no further".

II
RESPONDENTS QUESTIONS

Respondents admit petitioner's removal from the trial court to the district court, and they admit knowledge that section 1446(e) (1982) says that once a matter is removed from the state court to the district court that the "District Court has exclusive jurisdiction over the case". As examples they refer to Mr. Berberian's challenge in 1975, and Mr. Cavanagh's challenge in 1977. Both men were active court watchers.

Their question is whether they being who they are, and the courts of Rhode Island being ruled and controlled by Discretionary Law, rather than common law, and even constitutional law, "Are they laiable to follow the plain language of statutory law as far as section 1446(e) (1982) goes, or may they continue to interprete the law as they see fit?

1. In this matter, they feel that although they do not question petitioner's removal, and do not question that exclusive jurisdiction is transferred to the district court once a removal is effected, they feel that petitioner did not fulfill the requirements of sections 1441 et seq. when she filed her removal papers, and that therefore "there was no removal and the trial court never lost jurisdiction.

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TABLE OF AUTHORITIES

CONSTITUTIONS

Article VI. Cl.2

STATUTES

Title 28 USC 1441 et seq.
Title 28 USC 1446
Title 28 USC 1446(a)
Title 28 USC 1446(e)

PUBLIC LAWS

Act of March 31, 1875, C 137, 18 Stat 470

CASES

Allman vs Hanley, 302 F2d 559 (5th Cer 1962)

Beecher vs Wallace, 381 F2d at 373 (1947)
Boudrant vs Watson, 103 U.S. (13 OTTO) 281, 287-88 (1880)
Burlington R.R. vs Dunn, pp516-17, Oct. term 1886

Cavanagh vs Cavanagh, 380 A2d 964 (RI 1977)

Cok vs Cok, 533 A2d 534 (R.I. 1987)

Davis vs Weschsler, 263 U.S. 22, 24; 44 S. Ct., 13, 14; 68 L. Ed 143

Hyde Park Partners vs Connolly, 839 F2d 837, 841 (1988)

N.Y.C.R. Co vs Penn Central Investment, 271 U.S. 124, 126-7; 46 S. Ct. 447; 70 L Ed 865 (1926)

Polyplastics, Inc vs Trancconex Inc. 713 F2d 875, 880 L 1st Cer. (1983)

Steamship Co. vs Tugman, 106 U.S. 118, 1 S. Ct. 58,60; 27L Ed 87 (1882)

STATEMENT OF THE CASE

Dr. Gladys Cok is the Petitioner. She is the vice-President of the Court Watchers of Rhode Island. Her case is the prime case in Rhode Island cataloging more than 50 excessives and abuses by the Trial Court.

1. Need changing
2. Need reviewing
3. Need public exposure

She is appealing to this court the refusal of the Rhode Island court system to adhere to, accept and follow the Laws and Constitution of the United States which they swore to uphold and follow in their oaths of office.

1. The courts in Rhode Island have chosen to follow and accept "Discretionary Law" as the Law of the State. The Discretionary Law they follow is of their own making — often times they make it of their own making — often times they make it up as they go along.
2. Often, they don't even follow their own laws, changing them to fit the exingency of the moment.
3. Professor Dershowitz of Harvard documented the abuse of Law in Rhode Island, calling it the Rhode Island shuffle.
    A. Dr. Cok has documented Professor Dershowitz's findings with facts, and case history.

The appeal concerns the constitutionality of the action of the Supreme court of Rhode Island in rejecting the plain, unconverted and unambiguous language of Title 28 USC 1446(e) that states that once a matter is removed to the federal district court from a state court all action in the state court stops, and any actions taken during the Removal is null and void.

1. The Supremacy Clause (Article 6, paragraph 2) clearly states:

> "This Constitution, AND THE LAWS OF THE UNITED STATES which shall be made in Pursuance thereof... under the Authority of the United States, shall be the supreme Law of the Land; and the Judges IN EVERY STATE shall be bound thereby; anything in the Constitution or Laws OF ANY STATE TO THE CONTRARY NOTWITHSTANDING".

2. The Statute itself (28 USC 1446(e) says:

> "Promptly after the filing of such petition for the removal of a civil action and bond the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the petition with the clerk of such State court, which shall effect the removal and the State COURT SHALL PROCEED NO FURTHER unless and until the case is remanded.

In 1977, Robert Cavanagh, a member of an earlier group of Court Watchers, of which I am the vice-President, brought a case very similar to mine, in which "The R.I. Law of the Case" was decided (380 A2d 964) by the Supreme Court in favor of the clear, undisputed and unambigous language of the statute.

1. Judge Paolino speaking for the majority said:

> "(1) Orders of state court entered whild petition for removal was pending in federal court were void, even though federal court determined that removal petition was ineffective.
>
> "(2) where papers had been transmitted to Supreme Court and appeal had been docketed, Family Court had no authority to act on motion seeking sale of property and decrees it entered for sale were void."
>
> "Once removal procedure has been carried out, action in state court is automatically stayed and any proceedings there prior to federal remand order are absolutely void, despite subsequent determination that removal petition was ineffective (28 USC 1446)."

The same thing is said in Beecher v Wallace, cited as 381 F2d at 373 (1947) where the court said:

1. "The state court process becomes null and void on the date the action is removed to the federal court. (Cf 28 USC 1446(a); Allman v Hanley, 302 F2d 559 (5th Cir. 1962)

The Supreme Court in its October Term in 1886 ruled that a case cannot be in two courts at the same time. The case is Burlington R.R. v Dunn (pg. 517 Opinion).

"Inasmuch as the petitioning party has the right to enter the suit in the Circuit Court, notwithstanding the state court declines to stop proceedings, it is easy to see that if both courts can try the issues of fact... the records from the two courts brought her for review will not necessarily always be the same.

"Such a state of things should be avoided if possible, and this can only be done by making one court the exclusive judge of the facts."

"It must rest with one court alone, and that, ... is more properly the Circuit Court."

HOW THE FEDERAL QUESTION WAS PRESENTED

The Federal Question "whether the plain wording of Title 28 USC 1446(e) ruled when a matter was Removed from the state court to the Federal court for the district" was addressed from the moment of Removal to the Opinion of the R.I. Supreme court on November 17, 1987.

Interestingly, none of the appellees deny the existence of the Removal. They just say that the plain language of the Removal statute pursuant to Title 28 USC 1446(e) doesn't mean anything to them, regardless that the removal is still docketed in the district court for Rhode Island.

The attitude can best be expressed by the report of the actual findings and reply of the trial court to the Removal. The Removal will be found in the Appendices of the original brief page.

STATE OF RHODE ISLAND FAMILY COURT
KENT, SC.

GLADYS L. COK :

v. : F.C. No. K79-0343

LEO COK :

REPORT AND ACCOUNTING OF COMMISSIONER, 10/5/84 THROUGH 3/19/87

Upon notification that Mr. Chernick and the undersigned had been so appointed, we reviewed the Family Court files. Shortly thereafter, we were notified by plaintiff that the case had ostensibly been removed to the U.S. District Court for the District of Rhode Island and that were we to do anything with any of the properties, we would be subjected to suit. Mr. Chernick and the undersigned thereupon researched the file in the U.S. District Court, ascertaining at least initially that jurisdiction of the Family Court had been suspended or ousted pending determination of the validity of plaintiff's attempted removal. Notwithstanding this, however, the commissioners were notified by Mr. Justice Fay to proceed with the sale of the subject properties.

INTRODUCTION

Rhode Island and Massachusetts have a very real problem, and that is that the courts of both states have become to believe that under "Discretionary Powers" they no longer have to follow the laws that limit their powers, their jurisdiction, and their discretion.

In Massachusetts, the first circuit in April of this year in a Massachusetts case: Hyde Park Partners vs Connally, 839 F2d 837 (1988) told the Massachusetts courts that the peculiar mandates found in section 1446(e) (1982) of title 28 USC was designed to focus attention of the courts on the deference and balance state courts owe federal courts, and the importance and necessity of federal courts of this deference and balance to the people of the United States who look to the federal courts for relief to avoid the strictures of their state courts, and their states.

The history of America has been a history of people using section 1446(e) of title 28 for relief from possible and otherwise inescapeable state tyranny.

A. See Steamship vs Tugman, 106 U.S. 118; 1 S.Ct 58, 60; 27 L.Ed. 87 (1882)

B. Bondurant vs Watson, 102 U.S. (13 OTTO) 284, 287-8, 26 L.Ed. 447 (1880)

C. Burlington R.R. vs Dunn, page 577 Opinion 1886

D. Weschsler, 263 U.S. 22, 24; 44 S.Ct. 13,14; 68 L.Ed 143 (1923)

E. N.Y.C.R. vs Penn Central Investment, 271 U.S. 124, 127; 46 S.Ct. 4470; 70 L.Ed 865 (1926)

F. Beecher vs Wallace, 381 F2d at 373 (1947)

G. Cavanagh vs Cavanagh, 380 A2d 964 (1977)

H. Polyplastics Inc. vs Transconex, Inc., 713 F2d 875, 880 (first Circuit, 1983)

I. Hyde Park Partners vs Connolly, 839 F2d 837 (1988) (first circuit).

In conclusion, we conclude that the deference of the State to the federal court pursuant to section 1446(e) of title 28 U.S.C. is essential for the proper balance to exist between state courts and federal courts.

ARGUMENT

I.

The question brought by both the petitioner and the respondents is whether title 28 USC 1446(e) (1982) means what the straight forward language of the statute says — or not. If the statute means what it says, then 1446(e) (1982) says that "once a case has been 'removed' from the state court to the district court of that state, and the 'removal' has been "effected" by a proper filing, posting of a bond, notice given to all adverse parties, and a copy of petition filed with the clerk of the trial court, then, at that point:

- The state court shall proceed no further unless and until the case has been remanded and certified back to the trial court.
- The jurisdiction of the state court absolutely ceases, and that of the federal court immediately attaches.
- Any subsequent hearings, orders, mandates, memorandums, ex-parte orders, contempt citations, jailings, threats, acceptances of open perjury by respondents, orders establishing a slush fund of $80,000 to be distributed at the discretion of the judge to allow her to purchase at the top price, two pieces of property belonging to her and her ex-husband jointly, is 'coram non judice', even if its is eventually determined that the removal was improper.
- That all subsequent hearings and orders of the trial court are void "ab initio", where the matter has not been remanded and certified to the trial court.
- That, even if the district court later decides that the "Removal" is improper, orders of the trial court made previously are of no legal effect, and are a nullity, because when the case was removed to the district court the jurisdiction over the case was transferred to that court at that time.

The question of the deference of state courts to federal courts seem to be widespread in the circuits, as is evidenced by the first circuit in a Massachusetts case (Hyde Park Partners vs Connolly, 839 F2d 837 (1988)) decided and reported in the April 4, 1988 Federal Reporter.

In that case, which is on point with petitioner's case, the first circuit found that the proper balance and deference due between the federal and state courts was to be found in the peculiar mandates of section 1446(e) of title 28 USC. The first circuit found that the plain language of the statute was important for the recognition, restraints and comity needed between state courts and federal courts. The first circuits findings regarding the peculiar mandates of section 1446(e) (1982) of title 28 USC was that:

1. At that point the removal is effected, pursuant to 1446(e), the jurisdiction of the state court absolutely ceases, and that of the federal court immediately attaches. (See Steamship Co. vs. Tugman, 106 U.S. 118, 1 S. Ct. 58,60; 27 L.Ed 87 (1882).

2. At the point the removal is effected, subsequent hearings and orders of the trial court are void "ab initio". (See Polyplastic Inc. vs Transconex, Inc. 713 F2d 875, 880 (1st Cir. 1983).

3. At the point the removal is effected, the state court has a duty to proceed no further in the case, because every order thereafter made in that court is "coram non judice". (See Tugman, 106 U.S. at 122; 1 S. Ct. at 60 (1882). This is true, according to Tugman, even if it is eventually determined that the removal was improper.

4. Also on point, even if the district court later decides that the removal is improper, the order previously issued by the trial court is of no legal effect. They are a nullity, because when the case was originally removed, jurisdiction of the case was transferred to the federal court. (See Hyde Park, Ibid).

The fact that the case might have been removed to escape the strictures of the state court (which it was) does not alter the law. (See Bondurant vs. Watson, 103 U.S. (13 OTTO) 281, 287, 288; 26 L.ED. 447 (1880). Justice Holmes in 1923 emphasized this in the matter of Davis vs Weschsler, 263 U.S. 22, 24; 44 S.Ct. 13, 14; 68 L.Ed. 143, where he wrote that "Whatever springes the State may set for those who are endeavoring to assert rights that the State confers, the assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice. (See also N.Y.C.R. vs Penn Central Investment, 271 U.S. 124, 126, 127; 46 S.Ct. 44708; 70 L.Ed. 865 (1926)).

II.

Respondent's main arguement is that if the state court has to follow the stringent Rule and Law as outlined in section 1446(e), and have to recognize that once petitioner removed her case on October 4, 1984, that the jurisdiction of the case was transferred to the district court (the matter was never remanded), and has remained there since, then the Supreme Court of Rhode Island is going to be embarrassed, because their findings in Cok vs Cok, 533 A2d 534 (R.I. 1987) (page 4 of respondents Brief) is that petitioner's 18 appeals and one mandamus claiming jurisdiction of her case was with the federal court will not be as the Supreme Court claimed "repeated, continuous, and frivolous appeals from every decision of the family court (made while the matter is on removal).

While the matter has been removed to the federal courts, the Supreme court has claimed that she is "contumacous and obstrepuous" and must be taught a lesson in deference to the state court — particularly the family courts, which in Rhode Island are absolute, with little or no relief from their dictates in all matters concerning personal and private rights, property, children, etc. To this end they have sought to publicly — as much as possible — strip her of as many of her assets, as much of her money as possible, and take as many of her properties from her as they could.

To this end they have as starters

A. Put me, the appellant, in jail for 15 days until they extorted $2500.00 from me.

B. Threatned me with jail, unless I accepted their open perjury and gave them $2700 the next morning, which I did.

C. Threatned me with jail unless I sign a Warranty deed to my property in Florida to an assignee of Allen Kirshenbaum for $8,000 under an offer made me by a third party.

D. Threatned me with jail unless I lift a Lis Pendans on property of mine in Coventry, R.I., which they sold to an associate of Allen Kirshenbaum for $55,000 under its value.

E. Forced me to put $40,000 into a "slush fund", which Edward Gallogly said would be established to assure that thousands of dollars would be given Allen Kirshenbaum for handling a "contamacuous" and "obstrepterous" litigant for the court.

F. Threatned me not to make any appeals for the thousands of dollars of damage, negligence, and vandalism willfully done to my Real Estate on direct orders of Judge Healey admitted to on the record.

G. Sold one of my properties for about $50,000 under its value to a lawyer, without any orders from the court, and without any accounting to the court.

H. Giving $16,000 of my money being held in the Registry of the court to Louis Cosentino for being the court ordered Guardian Ad Litem. He spent approximately 4½ hours in counseling my son.

I. Giving $15,000 of my money to an associate of Allen Kirshenbaum for a non existent Buy and Sell Agreement, and for forcing me, the appellant, to buy my own properties for a premium over what Judge Robinson offered to buy the property for, and what a business associate of Mr. Kirshenbaum intended to buy the other property for.

J. Refusal to give me, the appellant, an accounting of the missing and unaccounted rent and other money collected by Allen Kirshenbaum, as court appointed "Commissioner" who was under court order to protect and preserve appellant's assets and properties, pay bills, mortgages and taxes, etc. (Over $50,000 is unaccounted for).

K. Willful libel and slander of appellant's person and property by allowing several properties to go to Tax Sales although there was thousands of dollars available to pay the taxes; by not paying the mortgage on time, and on one occasion trying to force a mortgagee sale by not paying the mortgage at all, and by deliberately under orders from Edward Healey, allowing appellant's properties to be wasted, neglected, left vacant and open to vandalism, and the elements so as to bring appellant's name and reputation into disrepute with the Minimum Housing, neighboors and the community.

CONCLUSION

For the foregoing reasons. petitioner asks this court to deny respondents motion to dismiss.

Respectfully submitted
Gladys L. Cok
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APPENDICES

APPENDIX A	This matter was removed to the federal court from the state court on October 4, 1984.
APPENDIX B	This matter is over a book account — not a divorce.

STATE OF RHODE ISLAND FAMILY COURT
KENT, SC.

GLADYS L. COK :

v. : F.C. No. K79-0343

LEO COK :

REPORT AND ACCOUNTING OF COMMISSIONER, 10/5/84 THROUGH 3/19/87

By order of Mr. Justice Fay on October 5, 1984 (Order entered by Macktaz, J. on October 11, 1984), *the late Melvin A. Chernick,* Esquire *and the undersigned were appointed co-commissioners to effectuate the sale of the real estate described in the Decision Pending Entry of Final Judgment (entered on March 19, 1982).*

Upon notification that Mr. Chernick and the undersigned had been so appointed, we reviewed the Family Court files. Shortly thereafter, *we were notified by plaintiff that the case had* ostensibly *been removed to the U.S. District Court for the District of Rhode Island and that were we to do anything with any of the properties, we would be subjected to suit. Mr. Chermick and the undersigned thereupon researched the file in the U.S. District Court, ascertaining at least initially that jurisdiction of the FamilyCourt had been suspended or ousted pending determination of the validity of plaintiff's attempted removal. Notwithstanding this, however, the commissioners were notified by Mr. Justice Fay to proceed with the sale of the subject properties.*

UNITED STATES DISTRICT COURT — RHODE ISLAND

Dr. Gladys Cok :

v. : CA84-0543

Louis J. Cosentino

NOTICE OF REMOVAL

To the Clerk of the Family Court of and for the State of Rhode Island.

This is to certify that on October 4, 1984, the following matter was removed to the Federal Court for the District of Rhode Island.

The following papers were filed:

1. Petition for Removal
2. Bond
3. Memorandum of Law
4. A copy to the clerk of the Family Court
5. A copy to Louis Constantino
6. Copies of these papers are attached here to

Dr. Gladys Cok
1082 Greenwich Avenue
Warwick,
Rhode Island
TEL. (401) 738-0767

The Law is very clear about the fact that once a matter is removed to the federal district court for the district in which the state court is located, jurisdiction is removed to the federal court from the state court. The landmark case is this court's own decision in Cavanagh v Cavanagh. Following is a copy of the court's decision regarding Removals under Title 28 USC section 1446(e)... (Cavanagh's case).

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STATE OF RHODE ISLAND FAMILY COURT
KENT, SC.

GLADYS L. COK :

v. : F.C. No. K79-0343

LEO COK :

ORDER

This matter came on for hearing before this Honorable Court, Mr. Justice Najarian presiding, on November 13, 1984 on the following pleadings:

The Court notes that it appeared that the earlier removal of the instant action to the United States Federal District Court, in an action docketed therein as Civil Action No. 84-0543S, had been remanded to this Honorable Court and the Court orders a copy of that Order filed in the papers of the instant case, noting that the certified copy from the Clerk of the said Federal District Court had not yet arrived in this Court, but that there

Dated at Providence, Rhode Island this day of November 1984.

APPROVED: _____

ENTERED: _____

PRESENTED BY: Allen M. Kirshenbaum

CERTIFICATION

I, Pamela Trevitt, hereby certify that I mailed an exact copy of the within Order to Melvin A. Chernick, Esquire, 1114 Fleet National Bank Building, Providence, Rhode Island, Louis J. Cosentino, Esquire, 58 Weybosset Street, Providence, Rhode Island, Leo Cok, M.D., 307 Greenwich Avenue, Warwick, Rhode Island 02886 and to Gladys L. Cok, Ph.D., 1082 Greenwich Avenue, Warwick, Rhode Island 02886 on November 16, 1984.

Pamela Trevitt

LOUIS J. COSENTINO
ATTORNLY AT LAW
58 WEYBOSSET STREET
PROVIDENCE R I 02903
421-1011

May 6, 1983

Gladys Cok
1082 Greenwich Avenue
Warwick, Rhode Island

Court Ordered Fee Payable on or before September 18, 1980.

$2,400.00

LOUIS J. COSENTINO
ATTORNEY AT LAW
58 WEYBOSSET STREET
PROVIDENCE, R I 02903

Gladys Cok
1082 Greenwich Avenue
Warwick, Rhode Island